

In Re:
RESIDENTIAL CAPITAL, LLC, et al.
Case No. 12-12020-mg

September 16, 2014

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SOUTHERN DISTRICT OF NEW YORK

4 Case No. 12-13030-ma

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6 | In the Matter of:

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8 RESIDENTIAL CAPITAL, LLC, et al.

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14 United States Bankruptcy Court

15 | One Bowling Green

16 | New York, New York

17

18 | September 16, 2014

19 || 9:04 AM

20

21 | BEFORE:

22 HON. MARTIN GLENN

23 U.S. BANKRUPTCY JUDGE

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2 (CC: Doc#7017) Trial re: ResCap Borrower Claims Trust's
3 Objection to Proofs of Claim Filed by Frank Reed and Christina
4 Reed.
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1 P R O C E E D I N G S

2 THE COURT: Please be seated. All right, we're back
3 on the record in Residential Capital, number 12-12020. This is
4 day 2 of the evidentiary hearing regarding the Reeds' claims.

5 Can somebody advise me where we are with respect to
6 Mr. Curley?

7 MS. HAGER: Your Honor, Mr. Curley has said counsel,
8 who will arrive this morning, said they could not arrange his
9 appearance. They brought the certificate, so here you go.

10 THE COURT: I don't want to hear from counsel for
11 Mr. Curley.

12 MS. HAGER: Yeah.

13 THE COURT: Mr. Curley's not here. I don't need to
14 hear from you. Is he going to be here today?

15 MS. HEER: No, Your Honor. He could not --

16 THE COURT: Okay.

17 MS. HEER: Nobody was available, Your Honor.

18 THE COURT: If he's under subpoena -- I don't know
19 whether he's under subpoena. If he's under subpoena for this
20 trial and he's not here, there may be consequences.

21 MS. HEER: Your Honor, the amount of time of notice
22 for this was --

23 THE COURT: I don't want to hear it today.

24 MS. HEER: -- over the weekend.

25 THE COURT: If this issue comes before me, I'll deal

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1 with it appropriately. If he was served with a subpoena and
2 he's not here and the matter comes before me, you'll have an
3 opportunity to defend against any efforts to recover because of
4 his nonappearance. I'm not dealing with it today.

5 I take it that the Trust has not agreed to withdraw
6 its objection to the Curley documents?

7 MS. HAGER: That's correct, Your Honor.

8 THE COURT: Okay. Let's go, Mr. Reed. You're on the
9 witness stand.

10 MS. HEER: Your Honor, can I make a proposition? Can
11 we make a proposition --

12 THE COURT: Go ahead and make a proposition --

13 MS. HEER: -- for --

14 THE COURT: -- quickly.

15 MS. HEER: -- to resolve this?

16 THE COURT: You're taking my time.

17 MS. HEER: Perhaps we can offer an affidavit to
18 resolve the issues --

19 THE COURT: No --

20 MS. HEER: -- the other issues?

21 MR. REED: -- I don't think we can. Mr. Curley has to
22 be here to testify. We tried to resolve the issue about
23 Mr. Curley. Any witness in this trial has to be here present
24 for cross-examination, so an affidavit doesn't do it. His
25 physical presence is required.

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1 MS. HEER: Your Honor, the extent of the notification
2 that was received by Mr. Curley as to those specific issues
3 was --

4 THE COURT: I'm not questioning --

5 MS. HEER: -- was insufficient.

6 THE COURT: -- that now.

7 MS. HEER: Right.

8 THE COURT: It's just a simple matter of --

9 MS. HEER: Understood, Your Honor.

10 THE COURT: I was told at the end of the day yesterday
11 that Mr. Curley had indicated to Mr. Reed he could be here this
12 morning. He's not here. I'm not getting into the issue of
13 whether he had to be here, whether he was properly served with
14 the subpoena, whether there was reasonable notice of it. It's
15 a simple matter for the Court for today. The trial is going
16 forward; it's ending today. Mr. Curley is not here.

17 MS. HEER: Your Honor, if I --

18 THE COURT: Ms. Hager has not agreed --

19 MS. HEER: -- if I just can just quickly --

20 THE COURT: -- to stop -- Ms. Hager has not agreed to
21 withdraw the objections to the Curley documents; that's
22 certainly within the Trust's right to -- so I'm not questioning
23 that either. It's just a simple matter; Curley is not here.

24 Mr. Reed, take the witness stand.

25 MS. HEER: Thank you, Your Honor.

1 THE COURT: Could you at least identify yourself for
2 the record? I'm sorry.

3 MS. HEER: Patricia Heer of Duane Morris, Your Honor,
4 for TD Bank.

5 THE COURT: Okay. Thank you very much.

6 MS. HEER: Yes. And if I can just quickly, Your
7 Honor; I understand I already took up the Court's time. But
8 the indication about Mr. Curley's availability, that's
9 questionable.

10 THE COURT: I'm not getting into it. It's a simple
11 matter.

12 MS. HEER: Understood, Your Honor.

13 THE COURT: He's not here to testify --

14 MS. HEER: Understood.

15 THE COURT: -- and I have nothing else to do with it
16 today.

17 MS. HEER: Understood, Your Honor.

18 THE COURT: All right?

19 MS. HEER: Thank you.

20 THE COURT: All right, Mr. Reed. You've been
21 testifying in the narrative form. You indicated at the end of
22 the day yesterday that you intended to testify to give opinion
23 testimony about the value of your property.

24 Ms. Hager, did you file a brief? I didn't see one.

25 MS. HAGER: No, Your Honor, we didn't.

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1 THE COURT: Okay. All right, go ahead, Mr. Reed. Be
2 mindful, Mr. Reed, that your allotted time is running out.

3 (Pause)

4 MR. REED: Your Honor, the value of my -- of the
5 property that I own I will discuss and is arrived at from
6 firsthand personal knowledge about my property, our town, my
7 neighbors' homes who have sold that I personally know those
8 properties, the -- viewing the tax records, public records on
9 the sale of those properties, and in the experience I have in
10 selling -- attempting to sell the property.

11 Your Honor said something yesterday about knowing
12 about real estate but not knowing the Moorestown market, and I
13 guess that's my role: to talk about my house and the Rock --
14 the Moorestown -- Moorestown in general is a desirable town, in
15 my opinion. In deciding to move there in 2006, we looked at a
16 variety of characteristics, from schooling and physical
17 conditions of the town, as well as, in arriving at the value or
18 the decision to live in our particular neighborhood, the
19 construction methods in -- of the property.

20 Sorry, I want to get these.

21 In regard to Moorestown itself, Moorestown has some
22 bit of notoriety. It was number-one town in America, according
23 to Money Magazine, in 2006, which in my opinion increased the
24 value of the desirability being there.

25 THE COURT: Ms. Hager?

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1 MS. HAGER: Objection. Hearsay.

2 THE COURT: Overruled.

3 MR. REED: Our particular neighborhood we found and --
4 to be desirable, and other people do find it desirable, in my
5 opinion, because it has sidewalks; the construction of the
6 houses in particular, as I started to say. I'm very aware
7 those other neighborhoods in the town are constructed in a way
8 that utilizes pre-fabricated building materials, like trusses;
9 they use joists at wider intervals. This affects the actual
10 feel of the house. Something called deflection, for example.
11 When you walk on a floor and you feel it's a little bit of a
12 bounce, the house doesn't feel as solid, is an example of
13 comments that are made about the houses in our neighborhood,
14 and in particular in regard to my house, because I -- there're
15 certain modifications I had made to the property.

16 Our builder, who actually lives in the neighborhood
17 and who I've consulted with even on the construction of his
18 home on our street, has -- is a third-generation builder. They
19 are well known in the area. Even the MLS listings list --
20 their last name is Maines, a Maines-built home, because the
21 people in Moorestown know that indicates richer appointments
22 (ph.), moldings, interior architecture features, that aren't
23 necessarily reflected -- those things are not things that are
24 reflected or picked up in appraisals. The effect of value in
25 the marketability of -- primarily in the marketability, and

1 you'll see it in the pricing differential as a trend in that --
2 like that neighborhood versus another house.

3 To speak about the trusses, for example, in a
4 construction of the roofs, in our house it's what's called
5 stick-built. So there's actual lumber -- individual lumber
6 pieces that are used in the construction. That, for example,
7 allowed me to take the house and convert the third floor into
8 real living space. The staircase -- the staircases in our
9 house go from the basement all the way to the third floor; it's
10 an open foyer all the way down. So it seamlessly allows you to
11 integrate if you're going to expand. And I use the same
12 contractors, subcontractors as the builder. I do -- I did
13 labor myself before I was injured.

14 And we expanded the third floor, I want to say, maybe
15 twenty -- or -- excuse me -- 1,200, 1,300 square feet, two-
16 bedroom suites, two bathrooms on the third floor. The ceilings
17 we raised -- the cross-members are called collar ties -- up to
18 eleven feet. Again, some of these features are not what you
19 would see in an appraisal, but they make value. And the
20 buyers -- potential buyers feel that, and that's what compels
21 them to agree to a higher price.

22 That also has a bad side, as with the Jacobs contract
23 and the appraisal, for their purpose, from Commerce Bank, is
24 those elements don't get counted into the appraisal. It
25 generates an attractiveness to buy the property. It -- and it

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1 takes the buying ability or power to the -- typically to the
2 high end or to the end or off the scale of the appraisal.

3 (Pause)

4 MR. REED: Because of the unique nature -- or atypical
5 nature of the construction methods and materials that are used,
6 when you look at the value of the property, you have to look at
7 houses, in my opinion, that were built by the same builder or
8 in the same neighborhood. The builder -- it's an
9 architecturally controlled neighborhood. You -- for example, I
10 can't change anything -- or couldn't change anything on the
11 property for ten years. It was derestricted -- I believe it's
12 filed with part of the public record -- without approval from
13 them. And this is unlike anything else in the town of
14 Moorestown.

15 Beyond the physical features of the house itself and
16 the town in general, the neighborhood as a microcosm of the --
17 or a smaller market from the town, or specific market of the
18 town in general, there're other elements that go into the value
19 of a property when you're trying to market it. This is, again,
20 from my experience only on this specific property, multiple
21 contracts and offers on the property itself, but years of
22 experience doing it with other properties and my own.

23 And there're two -- I think at this moment there are
24 two elements that make up value for prospective customers,
25 besides the neighborhood or the town, or the unappraised or

1 unappraisable features like the moldings, the engineering, even
2 the landscaping, of the property, and the overall appearance
3 because of the restrictions and the rules governing the
4 neighborhood and its look itself. One element that's not
5 physical to the property itself but it determines the value
6 greatly in the property itself, to many customers, in my
7 opinion, in my experience, overwhelming amount of customers, is
8 the ability to set a specific time or date for delivery. A
9 term -- it's expressed as an actual term in the contract. It's
10 that important. Every real-estate contract I've ever been a
11 part of needs to be able to give a fixed date on which the
12 contract must be fulfilled.

13 In my experience, the typical buyers for the family
14 home that I have, or potential buyers, and for other family
15 homes that I have marketed, are moving from one family home to
16 another; they're not a newly constituted entity formed out of
17 thin air. They want to move a family, in my experience, and
18 they need a firm date to do it.

19 MS. HAGER: Objection. Speculative, and he's talking
20 about --

21 THE COURT: You're overruled.

22 MS. HAGER: -- what other people's motivations are.

23 MR. REED: The other day I talked about even the time
24 of the year having an effect on this, because families want to
25 move -- they like to move midyear, in my experience. They have

1 to move their children into different schools. They like to
2 move in the summer is another -- it's the most desirable time
3 of the year. And so one of the first questions upon an
4 inspection of a house or even pre-inspection of a house --
5 you'll see it in MLS listings -- is "available now for closing"
6 or "quick closing" or something like that. But there's always
7 some idea that you conclude, because a contract has to have
8 that element or it's not a contract; it's an open-ended, okay,
9 you can buy it sometime in the future, but it's not binding,
10 from my experience. And people can't practically live or make
11 plans like that.

12 And my experience related to that property and my
13 experience with other -- first let me say my experience related
14 to that property, regarding litigation, conflicts and -- is
15 commensurate with my experience with other properties, other
16 litigation experiences that I've had, that conflicts and
17 litigation, in our modern society, take a long time, and not
18 just because I talk slow. They take a while. I mean, this has
19 its origins in 2008.

20 I would like to take a moment to tie in the lis
21 pendens issue. Ms. Hager said the other day a lis pendens is a
22 notice; it's a notice of a potential lien, it's a notice of a
23 conflict. It's a public record. People are well aware of it.
24 Our expert states that the real --

25 THE COURT: Mr. Reed --

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1 MR. REED: -- estate profession --

2 THE COURT: -- I'm permitting you to give testimony
3 about the value of your property --

4 MR. REED: Okay.

5 THE COURT: -- because I believe that the law permits
6 a homeowner to do that. I'm not going to permit you to give me
7 a lecture about the state of the world or impact of litigation.
8 If you tie it -- I've got -- I'm trying to give you leeway.

9 MR. REED: Okay.

10 THE COURT: You're also against the clock.

11 MR. REED: Okay.

12 THE COURT: If you want to testify about the value of
13 the property and how you arrived at your estimates of value,
14 I'm going to permit you to do that.

15 (Pause)

16 MR. REED: Your Honor, the -- my house, in 2008 --
17 I'll speak about the value of the house in 2008, from my
18 perspective. An indication of that value -- a strong
19 indication of that value, if it was -- is the Jacobs contract.
20 The Jacobses are individuals who live in Moorestown. As a
21 matter of fact, they live in a more expensive house than I do.
22 And the Jacobses expressed to me their desire to live in our
23 house was because of -- they felt it was better construction --

24 MS. HAGER: Objection. Hearsay.

25 THE COURT: Sustained.

1 MR. REED: And it was my impression -- because I can't
2 quote them -- that they wanted to live in our neighborhood
3 because it was better than where they lived in Moorestown. So
4 they agreed to the two-million -- arm's-length transaction for
5 2,040,000 dollars. To support that value -- in my opinion that
6 that was correct as well -- over a year-plus later, this is the
7 value of the house and the neighborhood together. The neighbor
8 in my back yard was --

9 THE COURT: Let me step aside for a second.

10 Ms. Hager, does the Trust contest that the contract
11 price with the Jacobses reflected the fair market value of the
12 property as of the date of the contract?

13 MS. HAGER: Yes, because there was another appraisal
14 that --

15 THE COURT: Fine.

16 MS. HAGER: -- conflicted with that number.

17 THE COURT: Go ahead, Mr. Reed.

18 MR. REED: Your Honor, that appraisal, as I
19 understand, is not in evidence.

20 THE COURT: Just go on with your testimony, Mr. Reed.

21 MR. REED: Okay. So the neighbor's house that is
22 similar in size, 6,000 -- I say, within a few hundred square
23 feet of my house. Mine's 6,700. They're just over 6,000, or
24 6,400; I can't remember the square feet. I have seven
25 bedrooms, ten baths. They have six bedrooms, I think seven or

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1 eight baths. Over a year later when the market was supposedly
2 crashing throughout the country, that house sold in about a
3 week of being on the market, for over two million dollars.

4 I know the Murphys; I've been in their house many
5 times. Their daughter and son are friends with my children.
6 And so I know what's inside their house, again, because I know
7 the builder.

8 THE COURT: When you say "the Murphys", is this the
9 same house you're talking about, your neighbor's house?

10 MR. REED: Yes. I'm sorry.

11 THE COURT: Okay. I just wanted to make sure I was
12 connecting the names --

13 MR. REED: Yeah, yeah. Sorry about that. Sorry. You
14 don't know the Murphys.

15 In 2010 on my street, it's a house -- wasn't as
16 friendly with those people, but I knew it; same house built --
17 another house built by Rob Maines and his brother, a house I
18 actually helped my cousin put some counter parts in, sold in
19 2010 for close to a million and a half dollars. It was on the
20 market, again, for about a week, again, at a time where I guess
21 the general feeling in the real-estate world was it was
22 freefalling.

23 2010 is the same year that the Roccisanos made an
24 offer to us for a million-350. It's particularly interesting,
25 since the house several houses down from 831 Matlack Drive sold

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1 for 130,000 more and it's a smaller house. It's --

2 THE COURT: 130,000 more than what?

3 MR. REED: A hundred -- excuse me. 130,000 more than
4 the Roccisanos' offer. So here you have a house on my street
5 selling rapidly for a million-465. What offer do I get? A
6 one-350. And the house is massively different, strikingly
7 different. My house -- I spoke of the builders' accoutrements
8 (ph.); it's known in our marketplace. I enhance that. I
9 design and construct elaborate interior architectural pieces,
10 tray ceilings, coffered ceilings, iron rail stairca -- or
11 spindle staircases, thicker hand-railings, thick marble
12 flooring. So where the 831 Matlack is a more standard house
13 for the -- built by the Maineses, mine is more enhanced, not in
14 the -- just the nonappraisable features, but the square
15 footage.

16 At the end of 2010, Your Honor -- you asked me when
17 did we delist the house. It occurred at the end of 2010; I
18 believe, November 2010. That's when our listing agreement, I
19 believe, with B.T. Edgar expired. This is over a year after we
20 evicted Mr. Cooper. There continued to be sales in our
21 neighborhood. There continued to be relatively speedy sales.
22 And ours did not (sic), although, when the Jacobs contract was
23 put out, very quickly it went under contract, even at the top-
24 value dollar -- top asking price we did.

25 The Cooper contract, despite whatever his motivation

1 may have been or who he was or what he was about, he still had
2 to make a decision if that house was desirable, and he did --
3 Mr. Weaver, Cooper, whatever his name is -- so much so that he
4 even tendered a great deal of money in attempts to obtain that
5 house.

6 At the end of 2010, the Edgar people -- the Edgar Real
7 Estate (sic) did not want to continue our business relationship
8 for listing, at that time. And my impression, since I will not
9 quote them -- I guess I cannot -- is that it's because the
10 house wasn't going to (a) garner the amount of money they
11 thought it should, (b) ever be able to close unless the
12 conflicts with GMAC were resolved.

13 MS. HAGER: Objection. Also speculation.

14 THE COURT: Sustained. Testimony's stricken about
15 Edgar's reasons for not wanting to continue with the listing.

16 MR. REED: So, Your Honor, our house being larger in
17 square footage, over 6,000 square feet, more bedrooms and more
18 baths, even though there was some decline, I think, in the
19 market in 2010, it is my opinion that my house would still have
20 been worth close to the one million eight, maybe one million
21 750, if it had -- if I had had full ability to negotiate a
22 contract and list terms and provide terms, certain terms which
23 I could sell it.

24 I would like to --

25 THE COURT: Ask you this, Mr. Reed: do you know what

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1 your outstanding -- what the outstanding mortgages, liens, on
2 the property were at the end of 2010?

3 MR. REED: At the end of 2010, Your Honor?

4 THE COURT: Yes, because you're giving me an opinion
5 of value of the house, at the end of 2010. And so my question
6 is what were the existing encumbrances, whether that's
7 mortgages, unpaid property taxes --

8 MR. REED: Um-hum. Um-hum.

9 THE COURT: -- any other liens that may have existed
10 on the property? Do you know what the amount was?

11 MR. REED: In 2010 there was the outstanding balance
12 on the note, of nine hundred and, I think, eighty-eight --
13 ninety thousand dollars. It's close to a million dollars. If
14 you want to round up to a million dollars, you can round up to
15 a million dollars.

16 The real-estate tax, 2010, say, maybe 70-, 75-, 80,000
17 dollars perhaps, in arrears.

18 THE COURT: Any other liens or encumbrances that you
19 were aware of at the end of 2010?

20 MR. REED: No, Your Honor, because I had to pay them
21 off at the -- when I received the money from Mr. Cooper. I
22 don't know what the interest and penalties on that -- for that
23 mortgage was at that time. I can't -- I don't know.

24 Are you going to give your opinion of value at any
25 other dates? I'm really mindful -- I want to hear your

1 testimony, Mr. Reed --

2 MR. REED: Yeah. Yeah.

3 THE COURT: -- but your time is running.

4 MR. REED: Your Honor, I cannot say, because I
5 don't -- I did not expose the house to the market. I believe
6 the interference, in my opinion, had its effect then and would
7 continue to have an effect until resolved. At that point we
8 became, as you know, involved in litigation, and counsel was
9 involved in attempts to resolve the issue.

10 I would like to point out one other thing; I don't
11 know if it's allowed, that it will be objected to if it is
12 not -- I mean if it is. There's an appraisal that was let in
13 not for the truth of the value.

14 What exhibit was that? 2.

15 (Pause)

16 THE COURT: Mr. Reed, let me make sure I understand.
17 I've heard you give your opinion of value of your property at
18 two dates: first, at the time of the Jacobs contract,
19 2,040,000 dollars; and second, at the end of 2010 where you
20 estimate the value at 1.75 to 1.8 million. Am I correct?
21 That's what I've heard you tell me.

22 MR. REED: Yes. And the other value, of course, would
23 be constrained by my agreement to sell that to Mr. Cooper at a
24 million-eight. I can't -- that's -- I mean, at least that's by
25 default. I mean, I --

1 THE COURT: What was the date of that?

2 MR. REED: That was 2008 into -- on track. Two
3 thousand -- yes.

4 THE COURT: All right.

5 MR. REED: But I feel that I let that -- Your Honor, I
6 let it go for less than what I thought it would -- I mean, I
7 though it was worth closer to, like, a million-nine. But I was
8 under the pressure that I felt.

9 THE COURT: All right, so you've given me your
10 estimate of value at three points in time. Is there any other
11 valuation testimony that you want to give?

12 (Pause)

13 MR. REED: Again, Your Honor, this is -- I want to be
14 clear for the record. The values that I state are the values
15 that are -- are the value of the property if I could have
16 delivered it clear without interference, that I could have
17 marketed property. The values impacted by what I believe
18 impacted it, the time element, show maybe a million-three in
19 2010, but I don't know because we didn't really -- we didn't do
20 a deal -- or an offer I had in twenty -- I think it was 2011
21 from Ms. Singh for a million-one. And I would have to say, for
22 2011, I have no reason to believe that the value would have
23 declined any further from what I thought it would be in 2010.

24 So to address you, 2011 would be the same value or
25 similar, very similar, to 2010, for the marketable, clear,

1 clean marketability of that property. But the functional value
2 that I was left with was -- I think, as of the last offer that
3 I received, was a million -- I don't have it in front of me --
4 a million-one from Ms. Singh.

5 So those are the two values. I just want you to
6 understand my opinion has two values to it. Prior to this
7 event, I have one opinion of value. Post the event, I have two
8 opinions of value: one affected, one unaffected.

9 THE COURT: All right, are there other areas that you
10 want to testify about other than value?

11 MR. REED: Yes.

12 THE COURT: I want to make sure -- let's --

13 MR. REED: Yeah. No --

14 THE COURT: -- get it done, okay?

15 MR. REED: -- Your Honor, I want to -- I think I said
16 yesterday when I was having a little difficult time, the stress
17 that we felt over this -- course of this extended interaction.
18 I'd also like to move into evidence -- and I don't know if I
19 need to comment about it. Ms. Hager had said she had no
20 objection to the interagency foreclosure review.

21 THE COURT: It's in evidence already.

22 MR. REED: I think it was, right?

23 THE COURT: It's in evidence.

24 MR. REED: And then also the testimony of the
25 representative from the Federal Reserve -- or -- oh, excuse me;

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1 this one is for Julie Williams; it's --

2 THE COURT: What exhibit number?

3 MR. REED: It's Exhibit number 17.

4 THE COURT: Ms. Hager, any objections?

5 MS. HAGER: No, Your Honor.

6 THE COURT: All right, Exhibit 17 is in evidence.

7 (Testimony of Julie Williams was hereby received into evidence
8 as Reed's Exhibit 17, as of this date.)

9 MR. REED: Exhibit number 4, statement of Scott
10 Alvarez from Federal Reserve, before the USA.

11 THE COURT: Any objection?

12 MS. HAGER: No objection, Your Honor.

13 THE COURT: All right, Exhibit 4, the statement of
14 Scott Alvarez, general counsel of the board of governors of the
15 Federal Reserve System, is in evidence.

16 (Statement of Scott Alvarez was hereby received into evidence
17 as Reed's Exhibit 4, as of this date.)

18 MR. REED: Exhibit number 6; it's a lis pendens.

19 THE COURT: Hold on. It's in evidence under another
20 exhibit number --

21 MR. REED: Okay.

22 THE COURT: -- already.

23 But do you have any objection to Exhibit 6?

24 MS. HAGER: No objection, Your Honor.

25 THE COURT: All right --

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1 MR. REED: It's number --

2 THE COURT: -- Exhibit 6, lis pendens, is in evidence.

3 (Lis pendens was hereby received into evidence as Reed's

4 Exhibit 6, as of this date.)

5 MR. REED: Exhibit number 7.

6 THE COURT: Any objection, Ms. Hager?

7 MS. HAGER: No, Your Honor.

8 THE COURT: All right, it's in evidence.

9 (Notification from 21st Mortgage Corporation was hereby
10 received into evidence as Reed's Exhibit 7, as of this date.)

11 MR. REED: Exhibit number 8.

12 THE COURT: Any objection?

13 MS. HAGER: No objection, Your Honor.

14 (Order was hereby received into evidence as Reed's Exhibit 8,
15 as of this date.)

16 MR. REED: Your Honor, I'd like to make one statement
17 for the record on Exhibit number 8. The copy of that order
18 came to me from GMACM's counsel; it was mailed to me. I didn't
19 get it from the Court. I recall getting it from GMACM in the
20 mail.

21 THE COURT: That's because in paragraph 3 on page 2 of
22 the order, it says that "Plaintiff serve a copy of this order
23 on Frank J. Reed, III, defendant, and to counsel for all
24 parties-in-interest, within seven days of Plaintiff's counsel
25 receiving the order." So they were ordered to do that and I

1 guess they did.

2 MR. REED: I guess they did.

3 THE COURT: Okay.

4 MR. REED: Exhibit number 9.

5 THE COURT: Ms. Hager, any objections?

6 MS. HAGER: No objection, Your Honor.

7 THE COURT: All right, the Delehey declaration and its
8 attachments, which Mr. Reed marked as Exhibit 3, are admitted
9 in evidence.

10 (Delehey declaration and its attachments were hereby received
11 into evidence as Reed's Exhibit 9, as of this date.)

12 MR. REED: Number 11, Your Honor, I'd like to talk
13 about for a moment.

14 MS. HAGER: Excuse me, Mr. Reed; I'm sorry.

15 Your Honor, I beg your pardon. Maybe I misheard. Did
16 you reference Claimants' Exhibit 3 --

17 THE COURT: No.

18 MS. HAGER: -- or was that 9?

19 THE COURT: Here's what -- it's Exhibit 9 but, when
20 you turn to the first page of Exhibit 9, it says "Exhibit 3 -
21 Delehey Declaration". So that was what I was reading. It's
22 Mr. Reed's Exhibit 9.

23 MS. HAGER: Thank you.

24 THE COURT: Okay. And it includes the attachments to
25 it.

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1 I'm sorry; your next exhibit was which, Mr. Reed?

2 MR. REED: Exhibit 11.

3 THE COURT: For what purpose are you offering Exhibit
4 11? It's a transcript from a hearing in this court.

5 MS. HAGER: No objection.

6 THE COURT: All right, it's in evidence. There's no
7 objection.

8 (Hearing transcript was hereby received into evidence as Reed's
9 Exhibit 11, as of this date.)

10 MR. REED: Exhibit 12.

11 THE COURT: Any objection?

12 MS. HAGER: No, Your Honor.

13 THE COURT: All right, Exhibit 12 is the amended
14 complaint for foreclosure, and it's in evidence.

15 (Amended complaint for foreclosure was hereby received into
16 evidence as Reed's Exhibit 12, as of this date.)

17 MR. REED: I believe Exhibit 13, 14 and 15, Your
18 Honor, we still have an issue with those, and --

19 THE COURT: We do.

20 MR. REED: There's an affidavit. Ms. Hager and I -- I
21 said at the end of the day yesterday I think there's something
22 else we were supposed to talk about besides the TD issue;
23 Ms. Hager couldn't recall what it was, neither did I, and then
24 I did this morning; and to show her the affidavits -- or the
25 declarations from the three attorneys regarding those bills.

1 THE COURT: Right. Ms. Hager, do you object to 13, 14
2 and 15?

3 MS. HAGER: My objections from yesterday remain. I
4 have not seen those affidavits yet.

5 THE COURT: I thought he talked -- you --

6 MR. REED: We forgot to do it at the end -- I can do
7 it right now, Your Honor, if you --

8 THE COURT: No, let's -- during a recess you'll do
9 that.

10 MR. REED: I believe that Exhibit 16 was superseded by
11 MM.

12 THE COURT: Correct, and it's in evidence.

13 MR. REED: Exhibit 17, did we just admit that?

14 THE COURT: We did.

15 MR. REED: Exhibit 19 is an exhibit Ms. Hager agreed
16 pre-trial to allow.

17 THE COURT: Could somebody tell me what it is? It's
18 not self-evident to me.

19 MR. REED: Your Honor, at the same time I had spoken
20 to -- or in the spring before the foreclosure, I'd spoken to
21 another broker -- "a broker" meaning a mortgage lender, an
22 individual who represented himself as such. The individual
23 took information from me, I believe. We discussed the value --
24 values of my property. The intent was, just like the TD issue,
25 to -- TD pursuit, to have some liquidity in a line of credit or

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1 a cash-out ref -- excuse me -- a refi. And the individual had
2 gotten back to me, and this is -- there's not -- I couldn't
3 give you dates and times.

4 THE COURT: I don't understand what it is, Mr. Reed;
5 that's what --

6 MR. REED: Oh, it's a letter -- I'm sorry. It's a
7 letter from an individual who was a -- who represented himself
8 as an employee of a mortgage company, and we discussed
9 borrowing money on 817 Matlack Drive. I gave the individual
10 the information that I -- I can't tell you the specific
11 information, but I remember him being satisfied with what he
12 wanted. He got back to me and said we had several options
13 available to me. I didn't concern myself, as I didn't with TD
14 Bank, as to the details. If I needed one, I would have
15 selected one and executed it.

16 I was told that that's all that remained to be done.
17 The only verification of this interaction was this
18 correspondence. Ms. Hager did not object to it like she
19 objected to the TD Bank's letters. I say -- I suspect, I
20 think, I knew why. She'll discuss it. But --

21 THE COURT: Ms. Hager, you have any objection to
22 Exhibit 19?

23 MS. HAGER: No, Your Honor.

24 THE COURT: All right, Exhibit 19, which is the
25 document dated November 20th, 2010, addressed To Whom It May

1 Concern, from Thomas J. Tartamosa, okay, it's in evidence.
2 (Document dated November 20th, 2010, addressed To Whom It May
3 Concern, from Thomas J. Tartamosa, was hereby received into
4 evidence as Reed's Exhibit 19, as of this date.)

5 MR. REED: Can I know what time I have left?

6 THE COURT: Let's just -- are you offering any other
7 exhibits --

8 MR. REED: I may, Your Honor.

9 THE COURT: So let's get that done, okay?

10 MR. REED: Exhibit 18.

11 THE COURT: That's actually the one I was looking at
12 when I said I had no clue what it is.

13 MS. HAGER: Your Honor, Exhibit 18 is an excerpt from
14 GMAC's servicing notes. We intend to offer the complete record
15 of the servicing notes. So I object to 18. It's hearsay as it
16 is, and incomplete; it's not the best evidence. We will be
17 offering into evidence a document which actually contains
18 Exhibit 18.

19 THE COURT: All right, so, Mr. Reed, the entire set of
20 servicing notes are going to come into evidence and, somehow,
21 if something goes awry, we'll come back to this, okay?

22 MR. REED: Okay.

23 THE COURT: All right. Any other exhibits you're
24 offering?

25 MR. REED: I don't think so. That's my entire book of

1 evidence that was filed pre-trial.

2 THE COURT: Well, not everything that you have in this
3 book has been offered, but --

4 MR. REED: Let me -- then let's make sure I understand
5 that. Let's see. I thought 1 --

6 THE COURT: I'll tell you what: during a recess you
7 can speak with Ms. Dabbert and she'll review with you and
8 Ms. Hager what documents have come into evidence, all right?
9 Let's not take the time now to do that, unless you know
10 something else you're offering.

11 All right, you'll deal with the -- I'll give you a
12 chance during a break to talk about the exhibits. And if
13 there're exhibit issues, you can raise that after the break.
14 Is there any other areas to which you wish to provide
15 testimony, Mr. Reed?

16 (Pause)

17 MR. REED: Your Honor, I'd like to say if I haven't
18 said for the record that in 2010 is when I became aware that
19 there was the lis pendens and the public recordation of
20 litigation regarding the property, the foreclosure action. I
21 learned that from the realtors. And it's at -- it's -- I
22 believe it was 2010.

23 I'd like to testify that, Your Honor, it's never been
24 my intent to not mitigate the damages that I'm seeking to
25 recover for, that the damages themselves are not restricted to

1 just the -- in my opinion, the increase or the carrying or
2 the -- as I said yesterday, I want to be able to have the money
3 to pay the current mortgage company. But for this interference
4 it would have sold; there would be no continued rule of a bill.
5 It's been -- I'm sure it's going to be discussed that when I
6 received monies why didn't I just pay the -- the mortgage
7 itself. The mitigation efforts involved trying to sell the
8 house, discount the house, reaching out, finding counsel,
9 seeking advice, seeking help. The money that was received
10 reduced the carrying costs for the house. If I didn't pay,
11 say, the second mortgage off, I would probably make the
12 argument, but for their bad act, there'd be a -- the second
13 mortgage would not have been paid off, and we'd have the
14 balance that has accrued, going forward, from that second
15 mortgage. So that ongoing expense was extinguished, just like
16 any expense on carrying the house beyond a point that otherwise
17 would not be my responsibility because it would have been sold.
18 So I point to the fact that we did eliminate carrying costs and
19 accrual of expenses for the property.

20 I'd like to review some papers for a moment.

21 (Pause)

22 MR. REED: Your Honor, I'd like to point out for the
23 record that if I'd received a notice of intent to foreclose
24 that's required by law and by contract -- I don't know how to
25 quantify this. I'm going to put it to you as it -- as it has

1 coalesced in my mind. A significant piece of information
2 required by that law is to say who the actual lender is, not
3 just the servicer but the lender, the noteholder. The
4 significance of that, especially as we stand here today or sit
5 here today, is that it's been well represented by the Trust
6 that the noteholder, a party to the note contract, counterparty
7 to me in that note, is a nondebtor entity, GMAC Bank, at the
8 time the notice was required, at the time the foreclosure was
9 filed. The statute of limitations has run --

10 THE COURT: Let's not make legal arguments --

11 MR. REED: Okay.

12 THE COURT: -- Mr. Reed.

13 MR. REED: Okay. I don't know what I -- let's why I
14 said, I don't --

15 THE COURT: This is not the time for legal arguments.

16 MR. REED: Okay. So I guess it's just important then
17 to say that that information would have been there for us to
18 see for whatever purpose. And we, as far as I know, were never
19 provided that information, as evidenced by the fact that when
20 we pursued GMAC, the noteholder was not listed as a -- as a
21 defendant, because we were unaware of it, because the
22 information was not given to us, as required by contract and
23 law.

24 As to what that damage has done, I don't know if this
25 is a legal statement, Your Honor, and you can stop me; I

1 apologize if I fail to recognize the difference. I spent or
2 accrued tens of thousands of dollars in legal bills in regards
3 to Mr. Walters pursuing the wrong person, or one of the wrong
4 entities, not the correct entity, as asserted by the Trust.
5 They said at the time the proper party -- the proper party to
6 the contract with me was GMAC Bank. To what result that would
7 have been, if we had contacted GMAC Bank, we served GMAC Bank,
8 we spoke to GMAC Bank, I cannot answer that at this time. But
9 I know that we spent thousands and thousands of dollars or
10 accrued that money that -- because we were deprived, through an
11 act of omission and a breach -- sorry, maybe that's a con -- it
12 sounds like a legal thing I was about to say -- failure to
13 provide it in the contract.

14 It's my understanding that it was also during the
15 litigation that it was requested if there were any other
16 parties that should be named, and that was not provided at that
17 time either. Again, I don't know -- in my mind the damage from
18 that is, A, the money I spent chasing the wrong person; B, I
19 even get in a word here --

20 THE COURT: You say you were chasing the wrong person,
21 but you're chasing the same party now.

22 MR. REED: No, I'm sorry, one of -- excuse me, not the
23 wrong person, but a -- a missing party, a missing party.

24 THE COURT: I have your point. Anything else you want
25 to -- because you're really out of time. I've let you go on

1 longer than --

2 MR. REED: Oh.

3 THE COURT: -- your allotted time.

4 MR. REED: And then the other -- the other estimation
5 of damage in that regard, Your Honor, would be the missed
6 opportunity to chase a -- a solvent entity for the damages as a
7 codefendant, versus here, in this forum, if indeed I get an
8 award at a reduced amount. I don't know how to address that
9 either.

10 THE COURT: Mr. Reed, you were represented by counsel
11 in your action against GMAC in state court. The arguments
12 you're making now are things that you could have -- your lawyer
13 could have done then, so I'm not making any legal
14 determination, but I hear your argument.

15 Any other additional points you want to make quickly?

16 MR. REED: I want to be clear about something else,
17 Your Honor. And this -- this -- I want you to -- I don't know
18 how to say this, but I'm going to and we can -- you can tell me
19 what to do with this. If I had gotten the money from the house
20 at the sale, unimpeded, sold it, had my equity from it, I would
21 have been in either one of my existing homes or one off the
22 shelf with no mortgage. Being served with the foreclosure
23 itself blew my mind and my wife's mind.

24 THE COURT: Mr. Reed, how could it have blown your
25 mind when you hadn't paid your mortgage for months and you

1 haven't paid it since then? That's what defies belief on my
2 part. You have not paid a penny since early 2008. So how you
3 think you're exempt from foreclosure of your home, when you
4 haven't paid your mortgage, is what I have problems with. I
5 understand your arguments about whether GMACM dotted the i's
6 and crossed the t's and could have or should have filed the
7 foreclosure action that they did file when they did. But the
8 fact that the mortgagee, the holder of the note, could bring an
9 action to foreclose on your home, is beyond dispute, Mr. Reed.
10 It is simply beyond dispute.

11 Okay. Is there any last point you want to make
12 quickly?

13 MR. REED: It is a surprise, as I would have paid it
14 if I had a notice.

15 THE COURT: Okay. That's speculation; I'm going to
16 exclude that testimony.

17 Is there any other testimony you wish to give in
18 support of your claim? Now is the time, because we're breaking
19 for a recess as soon as you finish, and Ms. Hager will commence
20 her cross-examination after the recess.

21 And when I say that the lender or the loan servicer
22 should have dotted the Is and crossed the Ts, it absolutely
23 should have. There is no doubt in my mind about that; that's
24 what the law requires. So I'm not suggesting that what they
25 did was correct or proper. I'm not ruling on that at this

1 point. But I'm not suggesting at all that they acted
2 appropriately, or not, in bringing the foreclosure action when
3 they did.

4 Okay. Any last points you wish to testify to?

5 MR. REED: Sorry if you've made me a little unsettled,
6 Your Honor.

7 THE COURT: I've been very patient.

8 MR. REED: You have been. I -- we're on the record,
9 Your Honor, I think that you have been --

10 THE COURT: Okay. Let's just -- is there any last
11 points you wish to make in your testimony, about facts, not
12 argument?

13 MR. REED: I can't think of them, Your Honor, other
14 than that you said we're going to enter evidence. You said I
15 could check on that.

16 THE COURT: Okay. What we're going to do is we're
17 going to take a half-hour recess. You don't have to use your
18 whole half hour for that, but I want Mr. Reed and Ms. Hager, or
19 other counsel, to -- there are a couple of specifically open
20 issues, and it's the three Exhibits 13, 14, and 15. You're
21 going to review with Ms. Hager the additional declarations or
22 affidavits you have, and you're also going to review your
23 documents to see whether there are any others that you wish to
24 offer.

25 Were there any other items, Ms. Hager, that you and

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1 Mr. Reed were going to confer about?

2 MS. HAGER: No, Your Honor.

3 THE COURT: Okay. Mr. Reed?

4 MR. REED: I can't --

5 THE COURT: All right. We're going to take --

6 MS. HEER: Your Honor, if I may, real quick? Thank
7 you, Your Honor. I apologize, Your Honor.

8 THE COURT: Identify yourself for the record again.

9 MS. HEER: Patricia Heer of Duane Morris, for TD Bank,
10 Your Honor.

11 Again, I understand that the Court has said that the
12 trial is ending today --

13 THE COURT: I'm not revisiting my ruling.

14 MS. HEER: If I can just request a short hearing,
15 whenever the Court is available. And there is -- we have no
16 issue -- Mr. Curley has no issue with coming and testifying.

17 THE COURT: There's no reason for me to have a short
18 hearing because no one -- Mr. Reed has not sought relief from
19 the Court with respect to Mr. Curley's nonappearance. If and
20 when such an application is made to the Court, you'll have
21 ample notice of it and an opportunity to appear.

22 MS. HEER: Thank you, Your Honor.

23 THE COURT: All right. We're going to be in recess
24 for a half hour. Obviously everybody take a break, but part of
25 that half hour is intended to give you a chance -- and maybe

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1 what you ought to do is give Ms. Hager those affidavits that
2 you have. She's entitled to her break too. I don't expect all
3 of the time to be taken. But when we resume, we'll resume with
4 your cross-examination. All right?

5 MS. HAGER: Thank you, Your Honor.

6 (Recess from 10:20 a.m. until 10:54 a.m.)

7 THE COURT: All right. Please be seated. First, are
8 there any exhibit issues we need to address, Ms. Hager?

9 MS. HAGER: Yes, Your Honor. During the break, Mr.
10 Reed handed me three affidavits to attempt to address Exhibits
11 13 through 15. And our objection remains to 13 through 15. I
12 don't believe Mr. Reed has copies of the affidavits for Your
13 Honor's review. But my issue -- and I'll just take them one by
14 one -- with Linda Campbell --

15 THE COURT: Let me just -- yeah, go ahead. Yes,
16 please.

17 MS. HAGER: Sure. So the objection is that Exhibit 14
18 is hearsay, and Mr. Reed has shown me a declaration from Linda
19 Campbell, whose name does appear on Exhibit 14, but what she
20 says in the declaration is that she provided counsel and legal
21 services to Mr. Reed with respect to the foreclosure lawsuit
22 filed by GMAC Mortgage, and "attached hereto, as Exhibit A, is
23 a true and correct copy of the receipts generated from the
24 firm". But there isn't actually anything attached as Exhibit
25 A. So I don't know if Exhibit A is supposed to be what is

1 Exhibit 14 or not. So my objection stands on authentication
2 grounds.

3 With respect to Exhibit 13, which is Mr. Walters'
4 bill, Mr. Reed provided me with a declaration of Mr. Walters,
5 and he states that he represented Mr. Reed in connection with
6 the foreclosure action. And he states that his services
7 included attempting, negotiating and mediating with GMAC and
8 RFC to resolve the claims, and also the filing of the state
9 court action in the law division, which Mr. Reed indicated
10 yesterday was by far the bulk of Mr. Walters' work for him.
11 And he goes on to say that "attached hereto, as Exhibit A, is a
12 true and correct copy of the most recent invoice generated by
13 my office". But again, there's no exhibit A attached, at least
14 to this declaration that I was handed.

15 With respect to Exhibit 15, this is the exhibit that
16 is an e-mail from Barbara Clark to Frank Reed. I was handed a
17 declaration of Krisden McCrink. I'm not sure whether this
18 actually relates to Exhibit 15 or not. But the affiant
19 states -- or the declarant states that the firm offered
20 services in 2008, with respect to a foreclosure lawsuit filed
21 by GMAC Mortgage, and "attached as exhibit A is a copy of our
22 bills". And they actually are attached. They don't
23 necessarily reflect what's actually been marked by Mr. Reed as
24 Exhibit 15. They did attach a detailed bill. I would say that
25 I believe that their descriptions of time are somewhat vague,

1 but at least there is a description of time. And from what I
2 can tell --

3 THE COURT: Does that add up to the same thing?

4 MS. HAGER: Well, I didn't -- no --

5 THE COURT: It was slightly under 4,000 dollars.

6 MS. HAGER: No, it doesn't add up. The total does not
7 add up. In Exhibit 15 --

8 THE COURT: It's 3,983 is the total.

9 MS. HAGER: -- 3,983. This bill is higher; it is
10 5,765. But I will note that this bill includes entries from
11 2008. It also includes entries -- a number of entries from
12 2012. So the foreclosure action -- the order dismissing the
13 foreclosure action was February 2009. So I think, to the
14 extent there are any entries from 2012, they would not be
15 applicable to the foreclosure.

16 And in addition, the entries from 2008, there is an
17 indication at the end of the bill that there is -- there's a
18 reference to Frank Reed v. GMAC. So I don't know if some of
19 that 2008 time was for the law division case. There's also a
20 reference to Jacobs -- telephone call with opposing
21 counsel/party Scott Jacobs in 2008.

22 The McCrink law firm represented Mr. Reed in
23 connection with the Jacobs v. Reed lawsuit. So it's impossible
24 to tell which entries from 2008 were applicable to the
25 foreclosure or the law division case or the Jacobs v. Reed

1 case. But again, this particular document that I'm talking
2 about now is not the same as what's been marked as Exhibit 15.

3 MR. REED: Your Honor, I'd like to say for the --
4 Mr. Walters and Ms. Campbell, I provided them a copy of the --
5 what I submitted to the Court, marked Exhibit, I believe, A.
6 And I kept a copy. In other words, there was two copies. I
7 went there. They kept a copy; they gave me back one. I didn't
8 have my staple -- I mean, my paper clips, and I -- I don't know
9 where it is. I remember I just -- I did this because I thought
10 after the status meeting that, you know, is there any reason I
11 should do it. I just started -- I took it on myself to do it.

12 THE COURT: All right. Here's what I would like to
13 have happen. I would like the three declarations or affidavits
14 attached to the respective statements. So the one to Exhibit
15 13 will be 13A, the one to 14 will be 14A, the one to 15 will
16 be 15A. And I'm going to overrule the objections to 13, 14,
17 and 15, and indicate I will give those exhibits the weight that
18 I believe they're entitled to, which remains to be seen.

19 From the Court's previous comments at prior hearings,
20 Mr. Reed, there could be no mistake, because I asked you
21 whether you were seeking to recover the legal fees you expended
22 in defending the foreclosure action. You told me you were.
23 And I made clear that you had to provide evidence of it.

24 So I'm going to overrule the objections and -- but I
25 want -- we'll get -- ordinarily I don't supply copies here, but

1 I want the record complete today, so we'll make copies of them
2 and attach them as 13A, 14A, and 15A, and the Court will give
3 it such weight as it deems appropriate, which I'm uncertain
4 about at this point.

5 (Statement from the Law Offices of Jeffrey S. Walters was
6 hereby received into evidence as Reed's Exhibit 13, as of this
7 date.)

8 (Declaration of Jeffrey S. Walters was hereby received into
9 evidence as Reed's Exhibit 13A, as of this date.)

10 (Linda Campbell's bill was hereby received into evidence as
11 Reed's Exhibit 14, as of this date.)

12 (Declaration of Linda Campbell was hereby received into
13 evidence as Reed's Exhibit 14A, as of this date.)

14 (McCrink law firm bill was hereby received into evidence as
15 Reed's Exhibit 15, as of this date.)

16 (Declaration of Krisden McCrink was hereby received into
17 evidence as Reed's Exhibit 15A, as of this date.)

18 THE COURT: All right. Are there any other exhibit
19 issues?

20 MR. REED: Your Honor, in regard to the Curley
21 matter --

22 THE COURT: The Curley matter is closed, Mr. Reed. I
23 gave you -- you told me yesterday that Mr. Curley said he could
24 be here this -- he could be here this morning. He wasn't
25 listed on your witness list. I explained yesterday why I would

1 permit him to testify if he appeared this morning. He did not
2 appear this morning. The matter is closed for now. If you
3 seek to obtain some relief, because you believe you timely
4 served him with reasonable notice of a subpoena to appear, that
5 will come on at another time. It won't come on now.

6 MR. REED: Okay.

7 THE COURT: All right. Any other exhibit issues?

8 MR. REED: Your Honor, I think the only exhibit left
9 was Exhibit 20.

10 THE COURT: Do you have an objection to Exhibit 20,
11 Ms. Hager?

12 MS. HAGER: Yes, Your Honor. Pursuant to Your Honor's
13 second --

14 THE COURT: Objection sustained. All right. That
15 takes care of the exhibit issues.

16 Cross-examination, please.

17 MS. HAGER: Your Honor, may I approach the witness to
18 hand him --

19 THE COURT: Absolutely.

20 MS. HAGER: -- our exhibits?

21 THE COURT: Yeah.

22 MS. HAGER: Thank you. Would Your Honor kindly
23 instruct the witness to remove any other materials that he has
24 he was using for reference?

25 THE COURT: Well, what I'll ask him to do is put his

1 materials -- all of his materials to the side. And if he
2 believes that he needs to review anything else to answer
3 questions, he's going to identify for me and for you what it is
4 he wants to use.

5 Why don't -- you've got additional papers on the
6 witness stand. Just move everything to the side, Mr. Reed,
7 and so we don't get the exhibits that Ms. Hager gives you
8 confused. Okay?

9 MS. HAGER: And Your Honor, can I also ask that the
10 laptop be closed and put to the side?

11 THE COURT: Oh, sure. The screen was blank anyway at
12 this point.

13 MS. HAGER: I don't know that.

14 THE COURT: I think it was asleep.

15 CROSS-EXAMINATION

16 BY MS. HAGER:

17 Q. Mr. Reed, you talked this morning about a house that was
18 on your street that sold in 2010. Was that 831 Matlack?

19 A. Yes.

20 Q. And that sold in 2010 for 1.465, is that correct?

21 A. Yes.

22 Q. And do you know when in 2010?

23 A. I cannot remember.

24 Q. The Roccisanos has offered you 1,450,000 in June of 2010,
25 right?

1 A. I think so.

2 Q. You don't know the listing price of 831 Matlack, do you?

3 A. No, I cannot say that I do. I can't remember.

4 Q. You admitted that the real-estate market declined in 2009
5 and 2010. In your opinion, did the market continue to decline
6 in 2011?

7 A. I don't think I admitted that the market declined. I
8 think I was referencing a national market. I don't -- can -- I
9 don't believe I rep -- represented that Moorestown or my
10 neighborhood declined. And so what was the question?

11 Q. The question was you admitted that the real-estate market
12 declined in 2009 and 2010. In your opinion, did the market
13 continue to decline in 2011?

14 A. I can -- I cannot.

15 Q. Is that a yes or a no?

16 A. Okay. I'm sorry. Say it again more --

17 Q. In your opinion, did the real-estate market decline in
18 2011?

19 A. The real est -- can you define the real-estate market?

20 THE COURT: Come on, Mr. Reed, let's not play games.

21 Q. Are you not going to answer the question?

22 A. I don't know if I -- I don't know if our neighborhood
23 continued -- if our neighborhood declined.

24 Q. So Moorestown operates in a vacuum, unlike any other city
25 in the United States, is that right?

1 A. I think Moorestown operates like the top of a mounting
2 when a flood comes and may, in my opinion, avoid much of the
3 collateral damage of a flood, if not entirely.

4 Q. But you stated that your property is unlike any other in
5 Moorestown, is that right?

6 A. There are many features that are unlike the majority of
7 the homes in Moorestown.

8 Q. You testified that your property is unlike any other
9 property in Moorestown. Do you remember testifying to that
10 effect?

11 A. I testified to that; it is a unique home.

12 Q. Is it difficult to sell a unique home?

13 A. No, it -- in my experience, it was not.

14 Q. Isn't style unique to each individual?

15 A. I cannot agree with that statement.

16 Q. Isn't it possible that a potential buyer might not
17 appreciate your particular style?

18 A. That is in -- that is in a realm of possibility.

19 Q. Isn't it possible that a buyer was looking for a more
20 standard home?

21 A. I do not understand the term "standard".

22 Q. You testified that your house was not like a standard home
23 that was on the market, I think it was 831 Matlack. Your home
24 is different because you upgraded it. Isn't it possible that
25 buyers were looking for something that was more standard as

1 opposed to the house that you upgraded?

2 A. Anything is possible.

3 Q. Do you have any documents to support how much you owed the
4 mortgage company at any point in 2010?

5 A. No, I do not. And by "the mortgage company", do you mean
6 GM -- the -- GMAC or --

7 Q. Could you turn your attention to Exhibit 13?

8 A. 13?

9 Q. Yes, 13. Do you have that in front of you?

10 A. I believe so.

11 Q. You testified that Mr. Walters handled some of the
12 foreclosure, but the majority of his work was on the law
13 division case, is that right?

14 A. That is correct.

15 Q. It's impossible to know from Exhibit 13 how much of his
16 bill is attributable to the foreclosure, isn't it?

17 A. That is correct.

18 Q. And it's impossible to know from Exhibit 13 if any of his
19 bill is attributable to the foreclosure, isn't it?

20 A. I do not see a breakdown on Exhibit 13.

21 Q. So it's impossible to know from Exhibit 13 if any of his
22 bill is attributable to the foreclosure, right?

23 A. I would say no, that is not true. This is his bill in its
24 entirety.

25 Q. What on Exhibit 13 indicates that there are any services

1 performed in connection with the foreclosure?

2 A. It's a matter of deduction. That is his entire bill for
3 all services rendered. And he has -- I have testified that he
4 has rendered services on the foreclosure.

5 THE COURT: Mr. Reed, it's very important that you
6 listen carefully to the question that's asked of you, and that
7 you answer the question that Ms. Hager puts to you.

8 Her question specifically is whether there's anything
9 on Exhibit 13 which indicates that Mr. Walters spent any time
10 on the foreclosure. That's the substance of her question.

11 Can you tell me whether there's anything on Exhibit 13
12 that would indicate whether he spent time on the foreclosure
13 action?

14 THE WITNESS: Exhibit 13 --

15 THE COURT: That's a yes or no.

16 THE WITNESS: With the affidavit or not? Or the
17 declaration?

18 THE COURT: The only thing you have right now is the
19 document that is in front of you.

20 THE WITNESS: No.

21 THE COURT: 13-A is going to be --

22 THE WITNESS: The bill itself for Mr. Walters, no.

23 THE COURT: Yes. It's a really simple question.

24 THE WITNESS: I'm nervous, Judged.

25 Q. So what can be gathered from Exhibit 13 is that you

1 incurred a bill with Mr. Walters' office and you didn't pay it,
2 isn't that correct?

3 A. That is correct.

4 Q. And because you didn't pay it, there's interest due,
5 correct?

6 A. Yes.

7 Q. Could you please turn to Exhibit 14. You testified that
8 Ms. Campbell handled an argument in the foreclosure case, is
9 that right?

10 A. Yes.

11 Q. In looking at Exhibit 14, it's impossible to know how
12 much, if any, of the bill is attributable to the foreclosure,
13 isn't it?

14 A. She did no other work for me.

15 Q. It's impossible to know which services were performed,
16 isn't that right?

17 A. She provided one service; she went and argued the
18 foreclosure at the hearing.

19 Q. Where on Exhibit 14 does it indicate what services she
20 provided?

21 A. I do not see a description of it.

22 Q. If you could turn to Exhibit 15. You testified that the
23 information in this e-mail indicates a bill for services in
24 connection with the foreclosure, is that right?

25 A. Yes.

1 Q. Isn't it impossible to know from a review of Exhibit 15
2 what services were performed?

3 A. Services were performed? Isn't it legal services for the
4 foreclosure matter?

5 Q. Can you show me anywhere on Exhibit 15 where it indicates
6 which services were performed?

7 A. I don't -- what services does a lawyer provide on a
8 foreclosure mat --

9 THE COURT: Mr. Reed, don't argue, okay. Just answer
10 the question.

11 Q. Isn't it impossible to know from a review of Exhibit 15
12 who performed the services and when?

13 A. Who performed and when? I couldn't tell you which lawyer
14 performed services from this Exhibit.

15 Q. You testified that this bill is from the first lawyer who
16 represented you in the foreclosure, is that right?

17 A. I thought so.

18 Q. And was his name McCrink?

19 A. Yes.

20 Q. Isn't it impossible to know from a review of Exhibit 15
21 whether any of the amounts listed in the e-mail were incurred
22 in connection with the foreclosure matter?

23 A. It says it on the bill, or the document, foreclosure
24 matter.

25 Q. McCrink was your lawyer in the Jacobs v. Reed matter, is

1 that right?

2 A. Yes.

3 Q. And when was that matter pending?

4 A. It was 2008.

5 Q. And McCrink also represented you to some extent in your
6 law division case against GMAC Mortgage, is that right?

7 A. I do not recall him being involved in that.

8 Q. When you purchased 817 Matlack Drive, you took out a first
9 and a second mortgage, isn't that right?

10 A. Yes.

11 Q. If you could turn to what has been pre-marked as Exhibit
12 KK. Do you have that in front of you?

13 A. Yes.

14 Q. Do you recognize --

15 THE COURT: Just give me a second --

16 MS. HAGER: Oh, sure.

17 THE COURT: -- okay. Okay.

18 Q. Mr. Reed, do you recognize Exhibit KK?

19 A. I don't remember it, but I believe I saw it at our
20 deposition.

21 Q. If you could turn to page 2 of Exhibit KK and let me know
22 if that's your signature and your wife's signature?

23 A. I believe it is.

24 Q. And then if you turn to page 4, would you let me know if
25 that's your signature and your wife's signature?

1 A. It looks like mine.

2 Q. And your wife's?

3 A. She signs differently sometimes. I -- I don't want to
4 comment on her signature.

5 Q. What are these documents?

6 A. These are the -- these are the HUD documents, the
7 settlement documents.

8 Q. And so if you take a look at the first page of Exhibit KK,
9 you'll notice that the settlement date is May 31st, 2006?

10 A. Okay.

11 Q. Do you agree that that's the date that you purchased the
12 home?

13 A. It sounds -- it sounds right.

14 Q. And according to page 1 of Exhibit KK, the amount of your
15 first mortgage that you took out to buy the home was a million
16 dollars, is that right?

17 A. Yes.

18 Q. And page 1 also indicates that the contract price for the
19 purchase of the new home was 1,571,619 dollars, and that's on
20 line 101, do you see that?

21 A. Yes.

22 Q. And do you agree that that was the purchase price when you
23 bought the property?

24 A. I believe it was.

25 MR. HAGER: Your Honor, I'd like to move Exhibit KK

1 into evidence?

2 THE COURT: Any objection?

3 MR. REED: No, no.

4 THE COURT: Exhibit KK is in evidence.

5 MR. REED: No.

6 (HUD settlement document was hereby received into evidence as
7 Trust's Exhibit KK, as of this date.)

8 Q. If you turn to page 3, which is another HUD-1 settlement
9 statement, same date, May 31st, 2006, would you agree that it
10 indicates that there's a second mortgage in the amount of
11 414,000 dollars?

12 A. Yes.

13 Q. So, essentially, you borrowed in total 1,414,000 dollars
14 to purchase 817 Matlack, correct?

15 A. Which line are you looking at for the second?

16 Q. I'm sorry, that was line 202 on page 3.

17 A. Okay.

18 Q. So, Mr. Reed, the question is you paid 1,414,000
19 dollars -- excuse me. You took out 1,414,000 dollars' worth of
20 mortgages to purchase the property, is that correct?

21 A. I think so.

22 Q. Well, looking at the documents --

23 A. Yes, I believe that's real.

24 THE COURT: May I ask a question, somebody can
25 enlighten me, Mr. Reed, if you can. On the first page, on line

1 204, it shows "Proceeds second mortgage 411,947 dollars," is
2 the difference between that and line 203 on the third page?

3 MS. HAGER: Sure. If I can ask another question on
4 the third page then --

5 THE COURT: Go ahead.

6 Q. Mr. Reed, did you pay any fees in connection with the
7 second mortgage?

8 A. I don't remember.

9 Q. If you take a look at page 4, line 1400, does it indicate
10 that there were any settlement charges associated with the
11 second mortgage?

12 A. I'm sorry, line --

13 Q. Sure, page 4, line 1400.

14 A. 4, line 14 --

15 THE COURT: It's the last line.

16 Q. It indicates total settlement charges of 2,453 dollars,
17 doesn't it?

18 A. I -- yes.

19 Q. Okay.

20 A. That's what that line indicates.

21 Q. I'm sorry?

22 A. Yes, that line 1400 settlement charges, page 4 of this
23 exhibit, seems to indicate 2,400 -- did you say 53 dollars,
24 yes.

25 Q. And then if you turn back to page 3, which is the first

1 page of the HUD-1 for the second mortgage, do you see at the
2 bottom in line 303, it indicates cash to borrower of 411,947
3 dollars, do you see where I am?

4 A. No, I'm sorry.

5 Q. All right. Line 303 on page 3 of the exhibit.

6 A. Page?

7 Q. Which is the very last line of page 3.

8 A. Page 3. Okay. 303, cash --

9 Q. Right. So line 303, which is the last line on page 1 of
10 the HUD-1 for the second mortgage, indicates cash to borrower
11 of 411,947 dollars, would you agree with that?

12 A. I guess so, yes. I would -- I guess. I mean, I didn't
13 take cash that day. I mean --

14 Q. Well, I'm just ask -- right. So you borrowed 414,000
15 dollars, the mortgage company subtracted out the settlement
16 charges, as you can see on lines 301 and 302, and arrived at
17 the total on line 303 of 411,947 dollars, would you agree with
18 that?

19 A. Okay, I'm sorry, say that -- say that again, I apologize.

20 Q. You took out a second mortgage for 414,000 dollars, didn't
21 you?

22 A. That's -- yes.

23 Q. Okay.

24 A. I think that's correct.

25 Q. And there were 2,453 dollars in settlement charges

1 associated with that, right?

2 A. It appears to be, yes.

3 Q. And those were paid at closing, right?

4 A. I believe so. Well, by this it indicates it, and I don't
5 have a reason to doubt it.

6 Q. So after the settlement charges were netted out, you were
7 left with a loan -- loan proceeds in the amount of 411,947
8 dollars, which were put towards the total purchase, is that
9 right?

10 A. Okay.

11 Q. Do you agree?

12 A. 411,947, yes, I think so, because it's a -- now it appears
13 on the front of the HUD-1.

14 Q. Right. So if you look at line 204 on the first page of
15 Exhibit KK, it carries over that amount from page 3. And you
16 can see the principal amount of the first was a million
17 dollars, and the proceeds from the second were 411,947 dollars,
18 do you agree with that?

19 A. Yes.

20 Q. Slightly more than a year after you purchased the
21 property, you put the property on the market, is that correct?

22 A. I did.

23 THE COURT: Does it indicate who the mortgagee for the
24 second mortgage is?

25 MS. HAGER: It does?

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1 THE COURT: Does it? I'm asking a question.

2 MS. HAGER: Okay, sure. On page 3, which is the
3 second HUD-1 settlement statement --

4 THE COURT: Yes.

5 MS. HAGER: -- at the top box F, the name and address
6 of the lender.

7 THE COURT: Okay. This page just relates to the
8 second mortgage, is what you're telling me?

9 MS. HAGER: That's right, pages 1 and 2 are -- would
10 be the first, and 3 would be the second.

11 THE COURT: That's fine, thank you.

12 Q. So you listed the property at the end of 2007, is that
13 right?

14 A. Yes.

15 Q. Do you recall which month that was?

16 A. I -- fall. I'm pretty sure it was the fall.

17 Q. You don't recall the exact month of --

18 A. No, I think it was -- it was before -- I think it was
19 October. Just a minute, late September or October.

20 Q. Well, was it before or after the property went up for tax
21 sale?

22 A. I am unaware of the property going up for tax sale.

23 Q. When you first took out the first mortgage, did your
24 monthly payments include escrows for taxes and insurance?

25 A. I do not remember.

1 Q. Did there come a time when the servicer, GMAC Mortgage,
2 required you to include escrows for taxes and insurance with
3 your payment?

4 A. Again, I do not remember.

5 Q. You were informed by GMAC Mortgage that monthly payments
6 would need to include taxes and insurances starting in February
7 of 2008, is that right?

8 A. I don't -- I do not remember that.

9 Q. And you failed to pay the February 2008 payment because of
10 that increase, is that right?

11 A. I don't know why, if at all, the February payment didn't
12 happen. That's an issue between my wife and I.

13 Q. But you're the only one on the note, isn't that right?

14 A. I believe so.

15 Q. So in early 2008, you had the agreement of sale with the
16 Jacobses, right?

17 A. Yes.

18 Q. And you failed to pay the February 2008 payment because
19 you were anticipating settlement and that the loan would be
20 paid off, isn't that right?

21 A. I don't -- I -- I cannot answer that question. I've said
22 that before about the February payment. I've been consistent
23 about that.

24 Q. You defaulted on the second mortgage in early 2008 as
25 well, right?

1 A. I don't know about that.

2 Q. The reason you used the 400,000 dollars from Weaver to pay
3 off the second in a lump sum was that the mortgage company
4 agreed to accept a reduced payoff, isn't that right?

5 A. Can you -- can you say that question again?

6 Q. Sure. The reason that you used the 400,000 dollars that
7 you received from Mr. Weaver, to pay off the second mortgage in
8 a lump sum, was that the second mortgage company agreed to
9 accept a reduced payoff, correct?

10 A. The reason I paid -- I paid it was Mr. Weaver wanted it
11 so, and it happened to be during that process that they agreed
12 to take a lower sum.

13 Q. Why did they agree to take a lower sum?

14 A. I offered them a lower sum.

15 Q. Now, how -- the payoff was less than 200,000 dollars to
16 the second mortgage company, is that right?

17 A. I don't remember what it was. It was -- it may have been.

18 Q. You had the means to bring the first mortgage current
19 during that period of time, didn't you?

20 THE COURT: What period of time are you talking about?

21 Q. Excuse me, in 2008.

22 A. I can't recall how much cash I had or what the deficiency
23 was, to answer that question.

24 Q. You testified yesterday that you made the first payment of
25 3,000 dollars under an agreement that you worked out with GMAC

1 Mortgage after a face-to-face meeting, do you remember that
2 testimony?

3 A. I do.

4 Q. And you further testified that you did not make subsequent
5 payments under that agreement for two reasons. One, that GMAC
6 Mortgage didn't return an executed copy of the agreement; and
7 two, that GMAC Mortgage didn't provide you with a coupon book.

8 Do you remember that testimony?

9 A. I think I said a coupon book or statement.

10 MS. HAGER: Your Honor, based on the claimant's
11 testimony yesterday as to there being a requirement in the
12 forbearance agreement for GMAC Mortgage to return a
13 countersigned copy of the agreement and the requirement of GMAC
14 Mortgage to provide a coupon book or a statement, I'd like to
15 show Mr. Reed a copy of the forbearance agreement that he had
16 been discussing yesterday. It was omitted from the Borrower
17 Trust exhibit lists, because previously there hadn't been a
18 dispute as to its contents. The testimony yesterday is not an
19 accurate reflection of the terms, so the Borrower Trust
20 respectfully requests leave to question the claimant about the
21 document which was shown to Mr. Reed this morning before the
22 start of the trial.

23 THE COURT: Mr. Reed, do you have any objection?

24 MR. REED: I do, Your Honor. What was shown to me
25 this morning does -- first off, I don't -- as I testified, I

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1 don't recall the terms other than an initial 3,000 dollars.
2 Secondly, I -- and this document doesn't even mention that
3 amount of money. Secondly, the physical form of what I thought
4 I remembered is nothing -- isn't the same at all. I don't know
5 what this document is. I don't know where it came from. I
6 haven't had an opportunity to have discovery on it. There's a
7 signature --

8 THE COURT: Mr. Reed, you opened the door with respect
9 to testimony about the modification agreement in your
10 testimony -- in your direct testimony.

11 Ms. Hager, are you going to be able to -- if Mr. Reed
12 does not provide testimony to authenticate the document, are
13 you going to be able to authenticate it through any other
14 witness?

15 MS. HAGER: Yes, Your Honor. I can make an offer of
16 proof that Ms. Delehey, when asked, will be able to
17 authenticate the documents as business records.

18 THE COURT: Okay. The objection is overruled. Mr.
19 Reed opened the door to the testimony about the modifi --
20 proposed modification agreement, because in his narrative
21 direct testimony yesterday, he testified specifically about the
22 proposed modification agreement and its terms.

23 MS. HAGER: Your Honor, I've previously showed Mr.
24 Reed copies and, as a technical matter, will be two exhibits
25 because one is signed and one is not.

1 THE COURT: Okay.

2 MS. HAGER: And I've pre-marked them Exhibits YY and
3 Exhibit ZZ.

4 THE COURT: Okay.

5 MS. HAGER: And if I may hand up copies --

6 THE COURT: Please, go ahead.

7 MS. HAGER: -- to your clerks.

8 BY MS. HAGER:

9 Q. Mr. Reed, do you have Exhibit ZZ there in front of you?

10 A. I do.

11 Q. Okay. Is that your signature on the document?

12 A. It appears to be.

13 Q. Is that your signature?

14 A. It looks like it. I don't have a reason to think it is
15 not.

16 Q. Okay. And what's the date next to your signature?

17 A. 8/8/08, oddly enough. August 8th, 2008.

18 Q. Do you remember signing this particular document?

19 A. I do not.

20 Q. If you could take a look at what I had showed you earlier,
21 which is marked as Exhibit YY. Can you tell me if you
22 recognize that document?

23 A. As I just said, I did not recognize this document.

24 Q. You're talking specifically about YY -- Exhibit YY?

25 A. Well, mostly, yes, about YY. This is not at all a form

1 that I recall that --

2 Q. Okay. Let's take a look at the document. The date on the
3 document is August 1st, 2008. Do you agree with me?

4 A. Okay.

5 Q. Do you agree with me that that's what the date is?

6 A. Yes. 8 -- there's a date on it, 8 -- August 1st.

7 Q. And the title of the document is a "foreclosure repayment
8 agreement". Do you agree with me that that's what the document
9 says?

10 THE COURT: It says it. Ask your next question.

11 A. Yes, yes; I'm sorry.

12 Q. And that it's addressed to you, Frank Reed, at 817 Matlack
13 Drive?

14 A. It is.

15 Q. Okay. You testified yesterday that your recollection was
16 you would need to make payments of 7,000 dollars a month. Do
17 you remember that?

18 A. I don't remember that. I thought it was 3,000 dollars and
19 I made a payment for 3,000 dollars.

20 Q. My apologies if I misstated what you had said yesterday.

21 Do you recall the terms of your forbearance agreement with GMAC
22 Mortgage?

23 A. The only recollection I had of it was the 3,000 dollars.
24 I wasn't sure how long that was to go on. I wasn't sure if it
25 was just the one month. I couldn't remember -- I couldn't

1 remember the contents of it.

2 Q. If you take a look at the document, Exhibit YY, it doesn't
3 state anywhere in that document, does it, that the servicer
4 would return an executed copy to you? Does it?

5 A. I --

6 (Pause)

7 THE COURT: You represent that it doesn't say that?

8 MS. HAGER: It doesn't say that.

9 THE COURT: All right. Let's move on.

10 Q. The forbearance agreement does not state that you would be
11 sent a coupon book or a statement. Does it?

12 A. This document does not.

13 Q. Okay. If you take a look at Exhibit MM, which was the
14 document that was marked yesterday; I think I gave it back to
15 you.

16 A. Okay. This was the e-mail exchange between yourself and
17 Mark Folweiler. You knew in September of 2008 that GMAC
18 Mortgage was not going to return a countersigned agreement to
19 you. Didn't you?

20 A. Say that again.

21 Q. You knew in September 2008 that GMAC Mortgage was not
22 going to return the countersigned agreement to you. Right?

23 A. I thought they were.

24 Q. Well, you received this e-mail from Mark Folweiler on
25 September 22nd, 2008, which is at the top of Exhibit MM, where

1 Mr. Folweiler says to you, "That is great news. And as far as
2 the docs are concerned, they never send them back."

3 So as of September 22nd, 2008, you knew you were not
4 getting countersigned documents back. Correct?

5 A. Oh. Okay. Oh, I see what you're saying. Yes.

6 Q. And you thought you were going to closing with Weaver in
7 September of 2008. Right?

8 A. That is correct.

9 Q. And you didn't make the September 2008 payment to GMAC
10 Mortgage because you expected the Weaver deal to close.
11 Correct?

12 A. In my memory, I thought there was still -- not -- I
13 thought there was something coming with his -- a schedule of
14 payments or a book. I can't tell you why I thought that. I
15 would be lying if I didn't tell you this.

16 Q. From the inception of your meeting with Mark Folweiler, it
17 was your intention to delay the foreclosure long enough to get
18 to the Weaver settlement. Isn't that right?

19 A. That was not -- that was not true. We filed a motion to
20 dismiss that was accurate under law, and I expected it to be
21 dismissed when heard. There was no -- I was not trying to
22 delay the foreclosure action because I was under the full and
23 firm belief that it would be ended.

24 Q. Well, if you turn to the last page of Exhibit MM, your
25 e-mail to Mr. Folweiler, you state that "the foreclosure law

1 firm was not notified of the agreement to temporarily stay the
2 foreclosure action for three to six months." Why did you want
3 the foreclosure action to be stayed?

4 A. Because I have to incur more legal fees.

5 Q. Well, if you had a motion pending, wouldn't you want that
6 to be heard and get the case over with?

7 A. And pay someone 2-, 3-, 4-, 5,000 more dollars in legal
8 fees for them to go and show and make the argument and we have
9 a payoff? I asked for a payoff from Zucker Goldberg.

10 Q. I'm going to ask you again. From the inception of your
11 meeting with Mr. Folweiler, it was your intention to delay the
12 foreclosure long enough to get the settlement with Mr. Weaver.
13 Wasn't it?

14 A. No.

15 Q. In your experience with real estate, why would a lender
16 agree to accept less than a hundred percent of the principal
17 that's due and owing?

18 A. If -- from a business perspective, if any of them would
19 want money in one lump sum instead of over time. It's like
20 selling a note; you take discounts to have it repaid.

21 Q. Isn't it because the property value doesn't fulfill --
22 doesn't fully satisfy their claim against the property?

23 A. I don't know what the motivation would be.

24 Q. How long have you been a real-estate investor?

25 A. I bought my first house in 1990.

1 Q. And you've owned multiple properties over the years. Is
2 that right?

3 A. Yes.

4 Q. And for these other properties, over time, were you paying
5 taxes and insurance?

6 A. Yes.

7 Q. Are you aware of any reason why you wouldn't have paid
8 taxes and insurance on the Matlack property?

9 A. No.

10 Q. You're presently in foreclosure with your current
11 servicer, 21st Mortgage Corporation. Is that correct?

12 A. Yes.

13 Q. If you could turn to Exhibit UU? Do you have that in
14 front of you? Do you have that in front of you, Mr. Reed?

15 A. Yes. Yes.

16 Q. Is that a copy of the complaint and foreclosure in the
17 21st Mortgage Corporation v. Frank Reed matter?

18 A. It appears to be.

19 Q. And you filed counterclaims in this matter. Didn't you?

20 A. I did.

21 Q. And can you turn to Exhibit VV?

22 A. Say that again.

23 Q. VV. Is Exhibit VV your answer and counterclaims in the
24 foreclosure matters between 21st Mortgage Corporation and
25 yourself?

1 A. I believe so. I mean, there's -- it's a long document. I
2 can't attest to every piece of it here, but it appears to be.

3 Q. Well, you filed the answer. Didn't you?

4 A. I understand that, but I don't know if this is the actual
5 copy of it, and I don't know if it is, but it appears to be.

6 Q. Why don't you take a minute and take a look at it; there's
7 signatures and time stamps. Let me know if there's any reason
8 you don't think this is your answer in the foreclosure case.

9 A. No, it appears to be.

10 MS. HAGER: Your Honor, I'd like to move in Exhibits
11 UU and VV.

12 THE COURT: Any objection, Mr. Reed?

13 THE WITNESS: No, Your Honor.

14 THE COURT: All right. UU and VV are in evidence.

15 (Complaint and foreclosure documents was hereby received into
16 evidence as Trust's Exhibit UU, as of this date.)

17 (Answers to counterclaim of Exhibit UU was hereby received into
18 evidence as Trust's Exhibit VV, as of this date.)

19 Q. Mr. Reed, in your counterclaim, you're seeking to have the
20 mortgage voided or otherwise declared unenforceable. Aren't
21 you?

22 (Pause)

23 A. I think that might be one of the --

24 Q. Well, let me do it this way. If you could look at your
25 counterclaim first count, the pages aren't numbered but if you

1 turn to page 8 of the exhibit.

2 A. 7, 8.

3 Q. Do you have page 8? Okay. If you look at the bottom in
4 the "wherefore" clause, paragraph (a) states "declaratory" --
5 let me back up.

6 A. Yes.

7 Q. "Wherefore, defendant seeks judgment against plaintiff as
8 follows: a) Declaratory and injunctive relief declaring the
9 mortgage void and unenforceable." Do you agree with me that
10 that is one of the forms of relief that you're seeking in the
11 foreclosure case with 21st Mortgage Corporation?

12 A. Yes.

13 Q. Do you agree with me that you have counterclaims for
14 negligence and breach of contract based on the acts of GMAC
15 Mortgage in the GMAC v. Reed case that you've asserted in the
16 21st Mortgage case?

17 A. I think -- I believe we've learned -- I've learned that
18 that's incorrectly asserted, that they belong here.

19 Q. And do you agree with me that you're seeking 3.9 million
20 dollars in damages in your counterclaim based on GMAC
21 Mortgage's actions in the first foreclosure?

22 A. At the time of filing, yes.

23 Q. Have you withdrawn this document from the court?

24 A. The intention is to modify it.

25 Q. Mr. Reed, could you take a look at what was pre-marked as

1 Exhibit X? Would you agree with me that this is the agreement
2 between you and your wife and Mr. Weaver?

3 A. Yes, it appears to be.

4 Q. And is that your signature and your wife's signature that
5 appear on the last page?

6 A. I reserve comment about my wife's signature, but it
7 appears to be mine.

8 Q. What is the date next to your signature?

9 A. 8/25/0 -- August 25th, 2008.

10 Q. And you recognize this document. Don't you?

11 A. I believe -- I believe it's -- I believe it's the contract
12 for sale.

13 Q. And Mr. Weaver agreed to pay you 1.8 million dollars for
14 the property. Is that correct?

15 A. That is correct.

16 MS. HAGER: Your Honor, I'd like to move in Exhibit X.

17 THE COURT: Any objection?

18 THE WITNESS: No, Your Honor. I'd like to stand for a
19 moment?

20 THE COURT: Yes. Exhibit X is in evidence.

21 (Sale agreement between Reed and Weaver was hereby received
22 into evidence as Trust's Exhibit X, as of this date.)

23 Q. Mr. Reed, if it's possible while you're standing, could
24 you take a look at Exhibit Y?

25 A. Um-hum. Exhibit Y.

1 Q. Yes.

2 A. Yes.

3 Q. And do you recognize that document?

4 A. Yes. This, I believe, is the addendum to the contract we
5 were just looking at.

6 Q. Is that your signature that appears on the bottom left?

7 A. Yes. It appears to be.

8 Q. And is that your wife's signature?

9 A. I believe. Again, not comment on her signature.

10 Q. And what's the date that the sellers signed the -- signed
11 the addendum?

12 A. October 22nd, 2008.

13 Q. As you stated, this is an addendum that relates to the
14 agreement with Mr. Weaver, which is Exhibit X. Am I right that
15 you had agreed to extend the settlement date a number of times
16 with Mr. Weaver?

17 A. Yes, that is correct.

18 Q. And this addendum, that is Exhibit Y, evidences one of
19 those times that you agreed to extend the settlement. Right?

20 A. Yes.

21 Q. And, in fact, the addendum, in paragraph 1, indicates that
22 the settlement would take place on Friday, November 21st, 2008.

23 Is that right?

24 A. Yes.

25 Q. Okay.

1 MS. HAGER: I'd like to move to admit Exhibit Y.

2 THE COURT: Any objection?

3 THE WITNESS: No, Your Honor.

4 THE COURT: All right. Exhibit Y is in evidence.

5 (Addendum to sale agreement between Reed and Weaver was hereby
6 received into evidence as Trust's Exhibit Y, as of this date.)

7 Q. If you could please take a look at Exhibit Z.

8 A. Yes.

9 Q. Exhibit Z is the lease agreement with option to purchase
10 between yourself and Mr. Cooper. Would you agree --

11 THE COURT: Could you say the exhibit again?

12 MS. HAGER: I'm sorry.

13 THE COURT: Which exhibit?

14 MS. HAGER: Z.

15 THE COURT: Z.

16 THE WITNESS: Zebra.

17 THE COURT: I misheard you. Just give me a second.

18 MS. HAGER: Sure.

19 THE COURT: Okay. I'm with you.

20 Q. Okay. This document, Exhibit Z, is the agreement between
21 yourself and Mr. Cooper. Is that right?

22 A. This is the agreement I referenced in yesterday's
23 testimony between Mr. Cooper and I that Mr. Cooper drafted and
24 presented to me.

25 Q. So you recognize this document. Right?

1 A. It appears to be the document I'm talking about, yes.

2 Q. Okay. And is that your signature on the second to the
3 last page?

4 A. Appears to be.

5 Q. Okay. And your wife did not sign this agreement. Is that
6 right?

7 A. That is correct.

8 Q. And this is the agreement that you referenced by which Mr.
9 Cooper would pay you 400,000 dollars for the option to move
10 into the property. Right?

11 A. That is correct.

12 Q. And Mr. Cooper further agreed to pay you 25,000 dollars a
13 month in rent. Isn't that right?

14 A. That is correct.

15 Q. Okay.

16 MS. HAGER: I'd like to move to admit Exhibit Z.

17 THE COURT: Any objection?

18 THE WITNESS: No, Your Honor.

19 THE COURT: All right. Exhibit Z is in evidence.

20 (Lease agreement between Reed and Cooper was hereby received
21 into evidence as Trust's Exhibit Z, as of this date.)

22 Q. If you could please take a look at Exhibit AA. Do you
23 recognize this document?

24 A. Yes, I do.

25 Q. What is this document?

1 A. Can you give me a moment? I -- there's something -- this
2 is this -- if you go back to -- please go back to Exhibit Z,
3 there's a blank of this and it's -- it is -- the language is
4 the same. It's an extension for the lease agreement with Mr.
5 Cooper. I'm just -- I've not -- I don't think I've ever seen a
6 signature on it or I can't remember seeing it on there.

7 Q. But you don't dispute, do you, that you entered into an
8 agreement to extend the lease agreement. Right?

9 A. No. No, I do not.

10 Q. And by virtue of this extension, which is Exhibit AA, you
11 had agreed to take the option from February 1st, 2009 until
12 August 1st, 2009. Correct?

13 A. That is correct.

14 Q. Okay.

15 MS. HAGER: I'd like to move the admission of Exhibit
16 AA.

17 THE COURT: Any objection?

18 THE WITNESS: No, Your Honor. I'm sorry; I forgot
19 that I'm the one who needs to object.

20 THE COURT: Exhibit AA is in evidence.

21 (Extension of lease agreement was hereby received into evidence
22 as Trust's Exhibit AA, as of this date.)

23 Q. So the purpose of the extension was to give Weaver more
24 time to purchase the property. Isn't that right?

25 A. Yes.

1 Q. And you had paid off the second mortgage by the time that
2 you agreed to the extension. Isn't that right?

3 A. That is correct.

4 Q. And you testified that paying off the second mortgage was
5 required by Mr. Weaver. Do you remember that testimony?

6 A. That is correct.

7 Q. There's no provision in Exhibit Z requiring you to pay off
8 the second mortgage. Is that right? And feel free to take a
9 look through Exhibit Z.

10 A. Exhibit Z. I don't remember. I think --

11 (Pause)

12 A. No, I don't see it in Z. I don't even -- I don't think --
13 I don't remember it being actually in there. So I'm not
14 surprised by that.

15 Q. If you could take a look at page 5 in the third paragraph,
16 there's a provision stating that Exhibit Z constitutes the
17 entire agreement between the parties. Would you agree with me?

18 A. I'm sorry.

19 Q. Page 5 --

20 A. Page 5.

21 Q. -- third paragraph.

22 A. Um-hum.

23 Q. There's a provision stating that Exhibit Z constitutes the
24 entire agreement between the parties. Do you agree with me?

25 A. Yes.

1 Q. You don't --

2 A. It says that -- it says that, yes.

3 Q. Right. It says that. And you don't have anything in
4 writing to show that Weaver required, and you agreed, to pay
5 off the second mortgage with the 400,000 dollar payment.

6 Right?

7 A. No. That actually happened orally -- I didn't think it
8 was in this document -- in a Bank of America lobby, at the time
9 of the money transfer.

10 Q. So it's your testimony that he verbally told you he
11 wouldn't pay you the 400,000 dollars unless you used it to pay
12 off the mortgage?

13 A. Yes. I had to do that. And I felt secure in doing that
14 because it was going towards the equity in -- you know, in the
15 house that I had title to. It wasn't --

16 Q. And I'm supposed to believe that Mr. Weaver would care
17 what you did with the 400,000 dollars?

18 THE COURT: It's argumentative. Ask another question.

19 Q. The only provision in Exhibit Z that addresses the 400,000
20 dollars is the eighth paragraph on page 1 of Exhibit Z. Is
21 that correct?

22 A. Eighth paragraph -- let me -- page 1?

23 Q. Yes.

24 A. One, two, three, four, five, six, seven, eight. I know
25 the rest of the document but I don't -- briefly scanning it

1 now, I don't see any other dollar amount that draws my
2 attention to it. And it looks like that's the only paragraph.

3 Q. Paragraph 8 on page 1 of Exhibit Z states that the 400,000
4 dollars was to be a deposit towards the purchase price.

5 Correct?

6 A. Okay. Let me read this again. Hold on a second.

7 (Pause)

8 A. Repeat that question.

9 Q. Sure. Paragraph 8 on page 1 of Exhibit Z states that the
10 400,000 dollars was to be a deposit towards the purchase price.

11 Correct?

12 A. Oh, wait a minute. This -- I got to remember this.

13 Q. Was --

14 THE COURT: The document says what it says. Ask your
15 next question.

16 A. Yeah, I thought it was --

17 THE COURT: Stop. Ask your next question.

18 Q. You didn't pay any taxes on the 400,000 dollars that you
19 received from Mr. Weaver. Is that right?

20 A. That is -- that's correct.

21 Q. Please take a look at Exhibit BB.

22 A. And I was advised not to by our accountant.

23 Q. Have you --

24 THE COURT: Mr. Reed. Just answer the questions
25 you're asked.

1 Q. Have you seen Exhibit BB before today?

2 A. BB? I'm -- I probably did. I don't recall -- I do not
3 remember the document. But by looking at it, I believe that I
4 did.

5 Q. So this document is the warrant of removal with regard
6 to -- excuse me -- with regard your matter against Mr. Cooper
7 for purposes of evicting him from 817 Matlack. You recall the
8 process of attempting to evict him from the house. Is that
9 right?

10 A. Yes.

11 Q. And according to this document, on the second page, do you
12 see where it indicates that Mr. Cooper was required to vacate
13 by September 8th, 2009?

14 A. I'm sorry. I'm on the second page. Where was it?

15 Q. Right. Second page towards the bottom. It says --

16 A. "Must vacate by September 2009", yes.

17 Q. September 8th, I think it is, 2009.

18 A. Um-hum.

19 Q. Do you recall Mr. Cooper leaving at -- around that time?

20 A. I believe he did vacate in September. I don't know. I
21 was in Virginia when that occurred, so I can't tell you when he
22 actually vacated.

23 MS. HAGER: I'd like to move to admit Exhibit BB.

24 THE COURT: Any objection? Mr. Reed, any objection?

25 MR. REED: No, Your Honor. I'm sorry.

1 THE COURT: All right. In evidence.

2 (Eviction Letter was hereby received into evidence as Trust's
3 Exhibit BB, as of this date.)

4 Q. Mr. Reed, you received discovery requests from the
5 Borrower Trust in this matter, correct?

6 A. I guess I did.

7 Q. Did you or didn't you?

8 A. I don't -- I don't remember what I received from them. I
9 was a little overwhelmed.

10 Q. Did you respond to any discovery request from the Borrower
11 Trust in connection with this litigation?

12 A. I don't recall. I -- the only thing I res -- I remember
13 is bringing documents to a deposition.

14 Q. Can you take a look at Exhibit OO?

15 A. Okay.

16 Q. Can you tell me if you remember receiving that document?

17 A. I do not remember.

18 Q. You've received e-mails from my office, haven't you?

19 A. You have -- I mean I have -- I have, yes.

20 Q. And if you take a look at Exhibit PP, do you recall
21 receiving that document from my office?

22 A. I don't remember. You very well may have sent it to me.

23 Q. And you've received documents from my office via overnight
24 mail as well. Is that right?

25 A. That is correct.

1 Q. Okay. And if you could take a look at Exhibit QQ. Do you
2 recall receiving that from my office?

3 A. QQ?

4 Q. Do you have it?

5 A. I don't have it.

6 MS. HAGER: If I may, Your Honor, I can show the
7 witness --

8 THE COURT: Yes, please.

9 MS. HAGER: -- my copy.

10 THE COURT: Go ahead.

11 Q. So the question is, do you remember receiving QQ?

12 A. I -- I don't remember.

13 Q. Do you recall me asking you to respond to written
14 discovery requests that we served on you?

15 A. I remember clearly at the deposition you said, did you
16 bring anything for me here, because I don't remember getting
17 anything from -- requests.

18 Q. So it's your testimony that you never responded to the
19 requests in Exhibit OO, PP or QQ. Is that right?

20 A. I did not. I think I misunderstood something. I remember
21 the judge saying something about the requests -- discovery
22 requests were going to be returnable after the hearing date.
23 If I have made a mistake in understanding what would be
24 returnable after the hearing date and -- versus other methods
25 of discovery and it's to my detriment, I don't -- I'm -- I have

1 no other excuse other than just saying that that's the source
2 of not responding to this.

3 MS. HAGER: In light of the admission that the
4 claimant didn't respond to Exhibit QQ, which are the requests
5 for admissions, I'd like to ask the Court to take judicial note
6 that, by operation of the Federal Rules of Civil Procedure,
7 that the admissions are deemed to be admitted because the
8 claimants failed to provide written responses within thirty
9 days of service. And for purposes of identification, Exhibit
10 OO --

11 THE COURT: I thought you said QQ. QQ is the RFAs.

12 MS. HAGER: Right. QQ is the RFAs, and I just don't
13 think I put in the titles of the other documents just for --

14 THE COURT: Okay.

15 MS. HAGER: -- reference.

16 OO is the request for the production of documents, and
17 Exhibit PP is the first set of interrogatories.

18 THE COURT: All right. With respect to QQ, the
19 request for admissions attached to the request for admissions
20 are an affidavit of service dated July 17, 2014, served via
21 e-mail and overnight mail. And the court will -- understands
22 the evidence that no response was made, and the effect provided
23 by the Federal Rules of Civil Procedures will be given to them.

24 MS. HAGER: Your Honor, I'd like to move to admit
25 Exhibits OO, PP and QQ.

1 THE COURT: Any objection, Mr. Reed?

2 MR. REED: No.

3 THE COURT: All right. OO, PP and QQ are in evidence.

4 (Request for Production of Documents was hereby received into
5 evidence as Trust's Exhibit OO, as of this date.)

6 (First set of interrogatories was hereby received into evidence
7 as Trust's Exhibits PP, as of this date.)

8 (Requests for Admissions were hereby received into evidence as
9 Trust's Exhibits QQ, as of this date.)

10 BY MS. HAGER:

11 Q. Mr. Reed, could you take a look at Exhibit R?

12 A. Yes.

13 Q. Okay. Have you seen that document before today?

14 A. I saw it at the deposition, and I believe I saw it prior.

15 Q. And this is a proposal to purchase by Scott and Tracy
16 Jacobs for your property at 817 Matlack. Is that correct?

17 A. That is correct.

18 Q. And what's the date on this proposal to purchase?

19 A. The date on the proposal to purchase. Oh, October 30th,
20 2007.

21 Q. And the proposal to purchase indicates that the Jacobses
22 were offering you 1.9 million dollars. Is that right?

23 A. Yes.

24 THE COURT: You have to speak up, Mr. Reed.

25 THE WITNESS: I'm sorry.

1 A. Yes.

2 Q. Now, eventually, as you discussed at length yesterday, the
3 Jacobses made a higher offer of 2,040,000 dollars, which you
4 and your wife accepted, right?

5 A. Yes.

6 Q. What was the listing price on October 30th, 2007?

7 A. I cannot tell you an exact number. I believe in excess of
8 2.1 million dollars.

9 Q. And ultimately, you failed to close on the Jacobs
10 transaction because the Jacobses' loan with Commerce Bank was
11 denied. Is that right?

12 A. That is correct.

13 Q. And when was that that the Jacobses informed you that they
14 were not going to close?

15 A. I believe it was very early Jan -- maybe January of 2008.

16 Q. And is it your recollection that the appraisal that was
17 obtained by Commerce came in below the agreed-upon sales price?

18 A. Is it my recollection that -- yes, yes.

19 MS. HAGER: I'd like to move to admit Exhibit R.

20 THE COURT: Any objection, Mr. Reed?

21 MS. HAGER: I'm sorry. Was there an objection?

22 THE COURT: I'm waiting for him to respond.

23 R. It's the proposal --

24 MR. REED: I don't have I if I have an R.

25 MS. HAGER: You just --

1 THE COURT: You do. You just looked at it. It's the
2 Jacobs proposal of the purchase from October 30th, '07.

3 MR. REED: Oh, yeah. Yeah, no objection.

4 THE COURT: So -- all right. Exhibit R is in
5 evidence.

6 (Jacobs purchase proposal was hereby received into evidence as
7 Trust's Exhibit R, as of this date.)

8 Q. Mr. Reed, could you please take a look at Exhibit U?

9 A. U.

10 Q. Do you have that document?

11 A. Yes.

12 Q. Okay. Exhibit U is a letter dated January 7th, 2008, from
13 a Mr. Hobatter (ph.) to Rudy Gruenberg (ph.). Have you ever
14 seen this document before today?

15 A. I do not remember seeing this document, but it reflects --
16 it reflects facts that I believe are correct.

17 Q. And was Mr. Gruenberg your lawyer in connection with the
18 Jacobs transaction?

19 A. Yes.

20 Q. Now, you didn't agree with the appraised value that was
21 supplied by Mr. Jones, who was the appraiser for Commerce Bank.
22 Is that correct?

23 A. That is correct.

24 Q. Because his appraisal came in at 1.95 million, which was
25 less than the 2,040,000 that you had agreed to sell the

1 property for. Is that right?

2 A. That is correct.

3 Q. Okay. Could you take a look at Exhibit O?

4 A. You talked yesterday about two different offers from the
5 Roccisanos. Do you recall that testimony?

6 A. Yes.

7 Q. And there was one offer that came in at 1.3 million and
8 then a second that came in at 1.45 million. Do you remember
9 that?

10 And I can show you documents if you need to see them.

11 A. Yeah. Do you say 135?

12 Q. 1.3 was the first --

13 A. 1.3 --

14 Q. -- and 1.45 was the second.

15 A. I believe that is correct.

16 Q. Okay. What was the listing price when you received the
17 first offer from the Roccisanos?

18 A. I don't remember.

19 Q. Well, if you could open up Exhibit O. Would you agree
20 that the first offer from the Roccisanos was in March of 2010?

21 A. Yes, yes.

22 Q. Okay. So if you turn to page 8 of Exhibit O.

23 (Pause)

24 Q. You have page 8 now?

25 A. I am. Thank you for your patience.

1 Q. Oh, no problem. So the entirety of Exhibit O, actually,
2 you've seen before, haven't you?

3 A. I believe I saw this at the Carter -- this was at the
4 Carter -- oh, no -- yes -- no -- yes.

5 THE COURT: It's marked as an exhibit in your
6 deposition, Mr. Reed.

7 MR. REED: Yeah, mine as well. I see that, Your
8 Honor. And it's obviously in the Carter deposition as well.

9 THE COURT: Right.

10 Q. And looking at page 8, do you know what that document is?

11 A. It's an MLS listing.

12 Q. What's an MLS listing?

13 A. Multiple Listing Service. It's where realtors list the
14 houses for sale.

15 THE COURT: Mr. Reed, you got to point --

16 THE WITNESS: Okay.

17 THE COURT: -- yourself to the microphone.

18 THE WITNESS: Sorry about that.

19 THE COURT: I just want to be sure we have a clear
20 transcript, okay?

21 THE WITNESS: No problem. Yes.

22 THE COURT: You can stand. I have no problem about
23 that.

24 THE WITNESS: I forgot.

25 THE COURT: That's okay. Go ahead.

1 Q. And when we went through the entirety of Exhibit O at both
2 Ms. Carter's deposition and your deposition, do you recall that
3 we noticed that the listing price was continuously decreased
4 throughout the duration of the time that the property was on
5 the market?

6 A. That is correct.

7 Q. Now, you're familiar, generally, with MLS printouts,
8 right?

9 A. Generally, yes.

10 Q. Now, on page 8, you see at the bottom where -- the very
11 bottom where it says "created 5/7/2010"?

12 A. I -- I must be on the wrong page.

13 Q. This is the particular page that has some handwriting at
14 the top, and the print's a little smaller than on the other
15 pages.

16 A. Oh, I'm sorry. Right. Okay. Yes.

17 Q. You have that? Okay.

18 A. Is this the one?

19 Q. Yes.

20 A. Okay.

21 Q. Do you see at the very bottom where it says "created May
22 7th, 2010"?

23 A. Yes.

24 Q. And at the top in the right-hand side, there's a price of
25 1,690,000. Do you see that?

1 A. Yes.

2 Q. And does that mean that that's the listing price as of May
3 7th, 2010?

4 A. I was unsure of that from the Carter deposition, because I
5 don't know enough what the word "created" means. It appears
6 that it may be. I don't know.

7 Q. Do you have any recollection of what the listing price was
8 on May 7th, 2010?

9 A. If you give me a moment, let me see if I can -- 2010,
10 May -- I remember back -- Roccisanos' offer -- no, but it
11 continually went down. So I don't know what it was at that
12 time.

13 Q. Okay. If you turn the page just to the next page --

14 A. Um-hum.

15 Q. -- there's another MLS listing printout. And do you
16 notice at the bottom, it says "created June 15th, 2010"?

17 A. June 15th? Yes.

18 Q. And at the top, in the right-hand corner, it indicates
19 that the listing price is 1,595,000. Do you see that?

20 A. Yes.

21 Q. Do you recall reducing the list price in the middle of
22 2010?

23 A. I don't recall it. But as I testified, I ordered the
24 successive reductions.

25 Q. Did you reduce the price -- excuse me. Did you reduce the

1 list price after the Roccisanos made the 1.3-million-dollar
2 offer to try and get them to come up?

3 A. I don't -- I do not recall specifically targeting a
4 customer with a list price reduction. A list price reduction
5 would be in the hopes to encourage any or all customers. I
6 mean, it was -- if it brings in the one that walked in the door
7 before, I'm well open to it.

8 MS. HAGER: I'd like to move to admit Exhibit O.

9 THE COURT: Any objection?

10 MR. REED: No, Your Honor.

11 THE COURT: All right. Exhibit O is in evidence.

12 (MLS listings for property were hereby received into evidence
13 as Trust's Exhibit O, as of this date.)

14 THE COURT: Where are you moving in your examination
15 now?

16 MS. HAGER: I have some questions to finish up on the
17 Roccisanos. Twenty minutes, fifteen --

18 MR. REED: Your Honor --

19 MS. HAGER: -- minutes.

20 THE COURT: Let's take our lunch recess now and
21 resume. It's 12:31 on my watch. We'll resume at 2 o'clock.

22 Do you have an estimate of how long you think you'll
23 be in cross-examination?

24 MS. HAGER: No, I -- maybe a half an hour.

25 THE COURT: Okay.

1 MS. HAGER: But I don't even think that.

2 THE COURT: All right. And then, you're going to call
3 Ms. Delehey?

4 MS. HAGER: Yes, that's right.

5 THE COURT: Okay.

6 Do you have a question, Mr. Reed?

7 MR. REED: Is U in evidence? I don't remember --

8 THE COURT: I'm sorry, which --

9 MS. HAGER: I didn't --

10 THE COURT: -- exhibit? No, it was not --

11 MS. HAGER: I didn't move Exhibit U --

12 THE COURT: -- introduced in evidence. It was not
13 offered.

14 Okay. We're in recess until 2 o'clock. Thank you.

15 (Recess from 12:31 p.m. until 2:03 p.m.)

16 THE COURT: Okay, everybody, please be seated.

17 Court's back in session; it's Residential Capital, 12-12020;
18 it's a continuation of the evidentiary hearing regarding the
19 Reeds' claims.

20 Ms. Hager, you want to continue with your cross-
21 examination?

22 MS. HAGER: Yes, thank you, Your Honor.

23 CROSS-EXAMINATION (RESUMED)

24 BY MS. HAGER:

25 Q. Before break, Mr. Reed, we were talking about the

1 Roccisanos. Now, the Roccisanos put in an agreement of sale
2 that you all were negotiating, is that right?

3 THE COURT: I don't understand your question.

4 MS. HAGER: Sure.

5 Q. Well, we had talked before break about two offers that
6 were made by the Roccisanos; one was for 1.3 million. They
7 then increased that offer to 1.5 million. Did there come a
8 time when the Roccisanos put in an agreement of sale that was
9 being negotiated?

10 A. I believe they had a proposed agreement of sale.

11 Q. Could you take a look at Exhibit EE --

12 A. Um-hum.

13 Q. -- please? Do you recognize this document?

14 A. This is the e-mail you showed me at our deposition.

15 Q. So if you turn to the second page of EE, would you agree
16 that that's an e-mail from Kevin Aberant to you?

17 A. From -- yes.

18 Q. Do you recall receiving that e-mail from Mr. Aberant?

19 A. No.

20 Q. Who is Kevin Aberant?

21 A. Kevin Aberant is -- or was or -- the attorney for, I
22 think, the Roccisanos.

23 Q. And the whole document itself is actually then an e-mail
24 chain starting off from that first e-mail from Mr. Aberant to
25 you. Then there's a responsive e-mail from you back to

1 Mr. Aberant, and then some subsequent e-mails that you're not
2 copied on.

3 But the original e-mail is dated June 30th, 2010. At that
4 time were you negotiating an agreement of sale with the
5 Roccisanos?

6 A. I believe so. I think they made an offer in middle of
7 June, and they wanted us to look at a proposed agreement.

8 Q. And you had had some conversations with Mr. Aberant about
9 the terms of their proposed agreement, is that right?

10 A. I don't know if it was one conversation. I don't -- I
11 don't recall much of a conversation.

12 Q. In the e-mail from Aberant to Roccisano, which is July
13 1st, 2010, in the middle of the first page of Exhibit EE,
14 Aberant refers to a conversation with you in which you were
15 going to try and find some free time to go over some proposal
16 changes to the contract. Do you see where I am?

17 A. Yes.

18 Q. Now, he's referring to an agreement of sale, is that
19 right?

20 A. I believe so, yes.

21 Q. And ultimately the deal never evolved because the
22 Roccisanos moved away from New Jersey, is that right?

23 A. Yes, I believe that that is correct.

24 MS. HAGER: I'd like to move to admit Exhibit EE.

25 THE COURT: Any objection?

1 MR. REED: No, Your Honor.

2 THE COURT: All right, Exhibit EE's in evidence.

3 (E-mail chain beginning June 30, 2010, among Kevin Aberant,
4 Frank Reed and others was hereby received into evidence as
5 Trust's Exhibit EE, as of this date.)

6 Q. Do you still have your exhibits up there, specifically
7 Exhibit 7? And this is the notification from 21st Mortgage
8 Corporation.

9 A. Yes.

10 Q. Okay, this document which you had introduced as Exhibit 7
11 indicates, does it not, that you owe \$896,344.03 to bring the
12 mortgage account current as of July 11th, 2014? Do you agree?

13 A. Yes. That's why I brought it to you.

14 Q. And you have not brought the account current as of today,
15 have you?

16 A. I have not.

17 Q. Have you made any payments to 21st Mortgage Corporation?

18 A. I have not.

19 Q. And 21st Mortgage Corporation is paying your real-estate
20 taxes, right?

21 A. I do not know.

22 Q. 21st Mortgage is paying your homeowners' insurance, right?

23 A. I am unaware of that.

24 Q. Do you have homeowners' insurance?

25 A. I cannot answer that.

1 Q. Are you paying for homeowners' insurance?

2 A. I am not. I do not know what my wife is doing.

3 Q. While Mr. Weaver was living in the property, it wasn't
4 being shown, is that correct?

5 A. Part of the time Mr. Weaver/Cooper was living there, there
6 was showings; he agreed to them after he bounced checks to us.

7 Q. When was that?

8 A. It was after the second check.

9 (Pause)

10 A. It was early on. I mean, I -- I think it -- it was either
11 after the first or second check, which would have been in
12 February or March.

13 Q. So it's your testimony that in February or March there
14 were showings of the property?

15 THE COURT: Of which year?

16 THE WITNESS: What was that? 2009. 2009.

17 THE COURT: Okay.

18 Q. Were there showings of the property at that time,
19 February/March?

20 A. I was in Virginia. I don't know. I know that we got him
21 to give permission to do that so that I would wait for checks
22 to clear.

23 Q. You don't know whether any potential buyers ever came
24 through the property at that time, do you?

25 A. You know, I do not know. I don't remember, because I was

1 in Virginia.

2 Q. And specifically, you testified yesterday and earlier this
3 morning about a property right behind your house that had sold
4 during the time that Mr. Weaver was living in the property. Do
5 you remember that testimony?

6 A. I do.

7 Q. So you don't know, do you, whether those buyers ever came
8 through your property?

9 A. I cannot answer that.

10 Q. Could you take a look at Exhibit FF, please?

11 So this is an e-mail chain starting from Nina Singh to
12 Louise Carter, but then which is forwarded by Louise Carter to
13 you. Do you remember receiving this document?

14 A. Oh, yes. Yes. Um-hum.

15 Q. You've seen this before, right?

16 A. I have.

17 Q. And the date on the e-mail from Ms. Singh to Ms. Carter is
18 May 8th, 2011, would you agree?

19 A. I do.

20 Q. Okay. And you received it on May 9th, 2011, is that
21 right?

22 A. Yes, it looks -- yes. She forwarded it to me.

23 Q. Now, in 2011 the property was not on the market, is that
24 correct?

25 A. I believe that's correct. I think we -- I think -- I

1 think the -- as I said earlier, the agency didn't want to keep
2 it on the market.

3 Q. Well -- right. You've testified that it hadn't been on
4 the market since late 2010, right?

5 A. I believe -- yes.

6 Q. Now, you testified yesterday that the Singhs wanted issues
7 with the mortgage company to be resolved before entering into
8 an agreement; do you recall that testimony?

9 A. Yes.

10 Q. Now, the Singhs offered 1.1 million and you rejected that,
11 is that right?

12 A. I had no way to accept it, I think, as I put in my
13 testimony, that I was -- I was aware that it would not provide
14 clear title to the Singhs.

15 Q. And what the Singhs indicate in their communication to
16 Ms. Carter is that "We would like a full description of what
17 the legal dealings are with the bank and the seller, as this
18 may affect closing." Would you agree that that's what the
19 Singhs indicate to Ms. Carter?

20 A. Yes.

21 Q. And it doesn't say anywhere in the Singhs' e-mail that she
22 wanted issues with the mortgage company to be resolved before
23 she would enter into an agreement, right?

24 A. That was what Ms. Carter, their agent, told me.

25 MS. HAGER: I'd like to move Exhibit FF into evidence.

1 THE COURT: Any objection?

2 MR. REED: No, Your Honor.

3 THE COURT: All right, Exhibit FF is in evidence.

4 (E-mail chain forwarding May 8, 2011 e-mail from Nina Singh to
5 Louise Carter, to Frank Reed, was hereby received into evidence
6 as Trust's Exhibit FF, as of this date.)

7 Q. Mr. Reed, you talked briefly this morning about
8 interactions that you had with Mr. Tartamosa, Allied Mortgage;
9 do you recall that?

10 A. I do.

11 Q. Okay. You don't have any written applications to Allied
12 Mortgage, do you?

13 A. I do not.

14 Q. And you don't have any written approvals from Allied
15 Mortgage, is that correct?

16 A. That is correct.

17 Q. And there's no written evidence of the loan amount that
18 you allegedly applied for or were approved for, is that right?

19 A. That is correct.

20 Q. And there's no evidence of what interest rate you applied
21 for or were approved for, right?

22 A. That is correct.

23 Q. And there's no evidence of the amount of liens at the time
24 of the application, is that right?

25 A. "Time of application". The only evidence I would say to

1 that would be the contents of the foreclosure action itself,
2 which would indicate the liens as -- the lienholders on the
3 property as co-defendants to the property.

4 When you file a foreclosure action, you name the
5 subordinate lienholders and serve them as well, I believe. So
6 you would see a list of liens at that same time frame, at that
7 same period of time. You would see a second mortgage or a tax
8 lien or something like that. So the foreclosure complaint
9 itself, just like the one that was filed recently, would
10 list -- because they pull title and they --

11 Q. What --

12 A. -- and they file it with the --

13 Q. Sorry. Excuse me.

14 What loan amount did you apply for with Allied Mortgage?

15 A. With Allied, I asked them for a cash-out refi; it was -- I
16 understood it to be either an eight-percent LTV or a ninety-
17 percent LTV. I did -- I believe I sent them -- the fella the
18 appraisal that I had from TD Bank for two million forty, and he
19 orally got back to me and said they could -- they had those
20 options available for me. I didn't ask for the interest rates.
21 I didn't even ask what the closing costs were, because he
22 knew -- he said that the closing costs would come out of
23 settlement, which was typical practice at that time; I don't
24 know what it is now. And so there was -- I had asked was there
25 anything else that he needed from me, similar to my situation

1 with TD Bank, and he did not -- he said there was nothing more.

2 And again, the next time -- I think I had said in
3 depositions that I spoke to the gentleman; it was after the
4 foreclosure action, and I asked about exercising those options
5 and coming to closing. And he got back to me -- I think I
6 spoke to him -- I think it was a voicemail. And he got back to
7 me and then we played phone tag, and he told me that he would
8 check on it, that he thought it would be okay. And then I
9 think there was a voicemail that said that it was no -- it's
10 not going to -- it can't happen. And as I said in depositions,
11 the reason he cited was also the foreclosure action.

12 Q. You never actually got an approval from Allied Mortgage,
13 did you?

14 A. I did not get a written approval from Allied. I only have
15 what I said I had. I can produce no more than what occurred,
16 and I can only say what has occurred.

17 Q. Can you turn to Exhibit LL?

18 A. Um-hum.

19 Q. You're familiar with this document, is that right?

20 A. I am.

21 Q. So LL is an affidavit from Stuart Shilling, who's the vice
22 president of Allied Mortgage Group. And he gave an affidavit
23 in connection with your Law Division case. You're familiar
24 with the contents of this affidavit, is that correct?

25 A. I am. I am.

1 Q. And you're familiar with the fact that Mr. Shilling, under
2 oath, indicated that he conducted a search of all business
3 records of Allied Mortgage Group and found that Allied Mortgage
4 Group does not have any record, documentation or correspondence
5 relating to either Frank Reed or Christina Reed? You're aware
6 of that, right?

7 A. Yes; that's what the affidavit says.

8 Q. Right. And that he further spoke with the corporate
9 operations manager for Allied Mortgage Group and she confirmed
10 that there's no record of any documentation or correspondence
11 relating to either Frank Reed or Christina Reed in the computer
12 system for Allied Mortgage Group? You're aware of that, right?

13 A. I am.

14 Q. And then he goes on to say, "Consequently, Allied Mortgage
15 Group has no documentation or information supporting
16 Mr. Tartamosa's claim that Plaintiff sought financing from
17 Allied Mortgage Group at any time, including March 2008"?
18 You're aware of that, right?

19 A. Yes. Yes, I am.

20 Q. We discussed this previously.

21 A. Yes. Oh, absolutely. Absolutely.

22 MS. HAGER: I'd like to move Exhibit LL into evidence.

23 THE COURT: Mr. Reed, any objection?

24 MR. REED: No objection, Your Honor. It is what it
25 is.

1 THE COURT: Okay, it's in evidence.

2 (Affidavit from Stuart Shilling was hereby received into
3 evidence as Trust's Exhibit LL, as of this date.)

4 Q. Mr. Reed, with respect to TD Bank, you don't have any
5 written applications to TD Bank, is that correct?

6 A. That is correct. It was not the custom for us to do so.

7 Q. And you don't have any written approvals from TD Bank, is
8 that correct?

9 A. It was, again, also not the custom for them to do so with
10 me.

11 Q. And there's no written evidence of the particular loan
12 amount that you applied for or were approved for, correct?

13 A. No. As I said to you before, even with the loan that I
14 closed a week after the foreclosure with them on my rental
15 properties, there's no approval, there was no written
16 correspondence. Mr. Curley established the loans, I walked in,
17 settlement was set, I signed the documents, we walked out.

18 Q. And you don't have --

19 A. It's --

20 Q. Sorry. I'm sorry. Go ahead.

21 A. No, so I'm saying that even in June of that year, on the
22 rental properties -- the refi on the rental properties, which
23 you've seen, you -- there's no -- there's no evidence of that.

24 Q. So there's no written evidence of what interest rate you
25 applied for, correct?

1 A. No, and there wasn't on those.

2 Q. And there's no written evidence of the amount of cash out
3 that you were seeking, correct?

4 A. No.

5 Q. Is that correct?

6 A. Oh. Correct.

7 Q. There's no written evidence of when you applied with TD
8 Bank, correct?

9 A. The only written evidence that I tried to demonstrate to
10 the Court is the facial stamp of a -- of the -- on the
11 appraisal. I mean, that's -- that is the kind of stuff I would
12 get. I'm sorry to say, and I feel bad for myself and my wife,
13 but that's, I guess, the nature of what happened now. This
14 is -- there was no document trail till the very end when you
15 closed on the mortgages.

16 Q. What loan amount did you apply for?

17 A. As typical with Mr. Curley, I would ask for a high number,
18 whatever you can give me, Rob. In this case I was looking for,
19 just like with Mr. Tartamosa, an eighty- to ninety-percent LTV,
20 cash-out refi on the property, appraised value of two million
21 forty. What does that put it at? A million-eight, million-
22 seven-something. If it was -- if it was an eighty-percent,
23 it'll be a little different.

24 I would be open to Mr. Curley doing a different amount.
25 We -- he's done different amounts with different terms,

1 different dollar amount, lower interest rate, little shorter
2 payout, timed notes. It just was a matter of cash management.
3 I -- you know, I regret not doing it all in writing. I
4 would -- maybe in this day now where I use e-mail much more, I
5 would have a trail of it.

6 Q. Do you recall being deposed in June 2009 in connection
7 with the Jacobs v. Reed matter?

8 A. I do.

9 Q. Do you recall your testimony during that deposition that
10 the amount of the mortgage that you applied for was 250,000
11 dollars?

12 A. As I think I said to you, I don't remember if -- I didn't
13 think that was what was on the primary residence. I thought
14 that had to do with the rental properties. I -- as I also
15 said, it's a -- it would be a fluid thing. I needed X cash.
16 If he couldn't come up with full amount, then it would be fine.

17 MS. HAGER: Your Honor, can I just have one moment? I
18 want to --

19 THE COURT: Sure.

20 MS. HAGER: -- pull out --

21 THE COURT: Go ahead.

22 MS. HAGER: -- some deposition transcripts.

23 THE COURT: Yes, go ahead.

24 MS. HAGER: Your Honor, may I approach the witness --

25 THE COURT: Yes. Go ahead.

1 MS. HAGER: -- and the Court?

2 THE COURT: Thank you.

3 Q. Now, having just handed you a binder, Mr. Reed, there are
4 several deposition transcripts in there. If you could turn
5 specifically to the transcript from -- I think it's the first
6 exhibit in that binder, from the Jacobs v. Reed matter?

7 A. Um-hum.

8 Q. You have that? Is that the first tab --

9 A. I think so.

10 Q. -- in the -- okay.

11 A. Oh. Wait. I'm sorry.

12 Q. I think I have them in a different order --

13 A. Yes.

14 Q. -- in my book; that's why I'm --

15 A. The first one I have is Scott Jacobs --

16 Q. Right.

17 A. Um-hum.

18 Q. Okay. So if I could direct you to that deposition
19 transcript and, specifically, page 38, starting at line 15.

20 A. Um-hum. 38, 15.

21 Q. Let me know when you're there.

22 Did you find that page?

23 A. Okay.

24 Q. Okay. So Ms. Adelsberger, who was doing the questioning,
25 asked the following question:

1 "Q. Now, do you know why Commerce ordered a second appraisal?
2 In other words, was it because of the whole Jacobs-Reed
3 transaction, or was it because you were now applying for a
4 loan?

5 "A. I contacted Commerce; it could be within days, if I'm not
6 mistaken, of this withdrawal, because now, as I said to you,
7 I'm now carrying two homes and I'm not sure how long it's going
8 to take to resell the house, looking to refinance the house.

9 "Q. Refinance Matlack?

10 "A. Yeah. I think we were looking to refinance the second
11 mortgage because it was at a higher rate.

12 "Q. Do you remember what the rate was?

13 "A. No. As I said, it was variable. I just knew my wife was
14 getting a little upset by that, and she said, well, if you can
15 refinance it, maybe we'll stay here instead of going to
16 Virginia, sell Virginia. We wanted to see -- again, we were at
17 a family nexus, a career nexus, a family nexus in life, to see
18 where we were going to."

19 A. Um-hum.

20 "Q. So you decided to apply for a refinance and you believe it
21 was for the second mortgage?

22 "A. It was. Or if they --

23 "Q. Well, if it was for 250,000 dollars, accord" --

24 THE COURT: No, you misread that.

25 MS. HAGER: Sorry?

1 THE COURT: You misread that.

2 MS. HAGER: Oh, I'm sorry, Your Honor.

3 THE COURT: At line 12.

4 MS. HAGER: At line 12.

5 "Q. Well, it was for 250,000 dollars, according to the
6 documents. Does that help refresh your memory?

7 "A. Yeah. So it could have been -- it could have either been
8 for the second mortgage, because the second mortgage was a line
9 of credit; it could have been the amount that was on that at
10 that time, because that was variable, too; you take it in and
11 out. That would make sense.

12 "Q. Well, I'm not trying to convince you of that.

13 "A. No, that's what I said originally. I thought it was for
14 the second mortgage, and your statement about the dollar amount
15 would make that correct.

16 "Q. I'm going to trust that my fellow co-patriots here will
17 correct me if I say any of the numbers wrong. I think I'm
18 getting them all right.

19 "So you applied for that loan in January, is that correct?

20 "A. It would have been very much quickly after that."

21 Q. So with regard to that testimony and the testimony you've
22 given here today, which statement is true: that you were
23 applying for a 250,000-dollar mortgage to refinance the second,
24 or that you were applying for a cash-out refinance of both?

25 A. As I said, I would ask Mr. Curley what can we do. In the

1 first one, I probably asked 250-. I probably said, hey, Rob,
2 maybe I need 250-. But in a subsequent conversation, we talked
3 about more.

4 Q. You --

5 A. And I understand. Look, I don't have any evidence to it.
6 If you want to point to something else where I said a different
7 dollar amount or that I just don't have the dollar amount, I
8 don't, because it wasn't done until we sat down. I'd be
9 willing to take what he gave to me. He knew that. It was a
10 course of doing business with him.

11 Q. I think I should clarify something. The date of this
12 deposition that I'm reading from is June 29th, 2009, which is
13 well after the time frame that you say you were denied by TD
14 Bank. And you were under oath when you gave this testimony.
15 And my question is, which statement is true: that you applied
16 to TD Bank for 250,000 dollars to refinance the second
17 mortgage, which at the time was in default, or did you apply
18 for a loan, as you've testified today, for a cash-out refi in
19 some unknown amount to pay off both the first and the second?

20 A. It was an open question in Mr. Curley -- if you look at
21 line 23, "looking to refinance the house", I -- look, I'm not
22 trying to be deceptive or illusive. It -- can I -- even if the
23 judge admitted the letters, they don't have a dollar amount to
24 them. I don't know what to say about it. It --

25 Q. Okay, so if you could turn to page 42 of the same

1 transcript? Starting at line 14 --

2 A. Um-hum.

3 "Q. Do you remember when your loan was approved through
4 Commerce?

5 "A. It wasn't. It was not.

6 "Q. It was not?

7 "A. No.

8 "Q. And why not?

9 "A. The process kind of died. It wasn't disapproved. I never
10 got a disapproval letter. I think, between the conversation
11 with the realtor and my wife, and the showings, we were under
12 the impression that the house was just going to resell, so
13 what's the point? Again, my wife had said -- and the attorney
14 and the realtor were, like, well, what are you going to do that
15 for, you don't have to refinance, it's going to sell.

16 "Q. So you never did actually refinance?

17 "A. I did not, no.

18 "Q. Well, we wouldn't have known that, obviously.

19 "A. Again, I don't know.

20 "Q. You don't know what we know. Did you at any time actually
21 call the bank and just say forget the refinancing, or do you
22 remember what happened?

23 "A. No. They may have requested some more documents. And
24 then I didn't give them to them or -- I don't know; I just
25 don't remember. I may have said, listen, I need a little more

1 time to think about it or something like that. I can't
2 remember. It was just a nonissue because, again, we thought it
3 was just going to go through."

4 Q. So which is true, your testimony here in this case or the
5 testimony you gave in this deposition about whether or not the
6 loan to TD Bank was denied or the process just died?

7 A. The process was -- and in my testimony here I think is
8 consistent with it -- just was not relevant. And I didn't -- I
9 didn't pursue it. We started in January. We had our
10 conversations like we normally did. I did the same thing at
11 the same time with regard to my three rental properties and the
12 refi. We wound up doing the refi on the rental properties. I
13 didn't think that I needed to do anything with the cash-out
14 refi on TD Bank.

15 I have always said I'm not sure when I actually got back
16 with TD Bank, talked to them about cash-out on the house, and
17 then it became an issue with the foreclosure. But it's a
18 nonquantifiable damage. I don't -- I don't -- I don't know
19 even if it was -- the letters came in and everything, I don't
20 remember when it happened. I remember the conversation about
21 it. I remember I think there was a voice mail back about it.
22 But it -- but it wasn't until later that it became a poignant
23 thing; well, what happened on that issue?

24 Q. Mr. Reed, you've testified in this case and put in
25 pleadings in this case that indicate that TD Bank denied you

1 for a loan because of the foreclosure. But in prior testimony,
2 you testified that the loan was for 250,000 dollars, only to
3 pay off the second, and it was not denied. Which one of those
4 is true?

5 A. The problem with that is it is not a just simple one
6 application. That's why there's no application. It's about
7 getting money out of the property. What program, what thing,
8 what time? And that's -- I don't know how else to answer it.
9 The only thing that happened is when we came back to it, to the
10 question, TD would not, you know, do it. And the reason they
11 wouldn't do it was because of that. They did the rentals; they
12 wouldn't do that one. I don't know what more to say about
13 that.

14 Q. Okay

15 MS. HAGER: I don't have anything further.

16 THE COURT: How much did you refinance your rental
17 properties with TD Bank for?

18 MR. REED: Almost 700,000; it was a cash-out refi. A
19 couple weeks after the foreclosure. They just wouldn't touch
20 the house.

21 THE COURT: Let me just -- when you say "a cash-out
22 refi", it replaced the existing financing?

23 MR. REED: Yes.

24 THE COURT: Did you take any cash out above that?

25 MR. REED: I don't remember what it was, Your Honor,

1 but yes. It wasn't a lot, but --

2 THE COURT: No, I'm just trying to understand. So it
3 was after your efforts to do a refinance on this property --

4 MR. REED: They occurred simultaneously.

5 THE COURT: Okay.

6 MR. REED: And one was kind of tabled, more -- I think
7 Rob said it was going to be more expensive: I don't know
8 exactly the amount you're going to be able to get, you know --
9 you know -- you know, what do you want me to push for, anything
10 in particular? I said just do the rental properties; get
11 that -- put that in the bag.

12 THE COURT: Okay, I'm just trying -- just the last --
13 I asked this question already, but let me - I want to be sure I
14 understand it. When you refinanced the rental properties, was
15 there any cash-out? I know you said you couldn't remember the
16 amount. When I say "cash-out", above the amount that you were
17 refinancing?

18 MR. REED: Yes.

19 THE COURT: Okay. And do you know, were those
20 properties cash flow positive after you refinanced? In other
21 words, was your -- you were -- they were rented --

22 MR. REED: Yes. I rented them for fifteen years to an
23 organization.

24 THE COURT: And after the refinance, were you still
25 cash flow positive with respect to the rental properties?

1 MR. REED: I believe so.

2 THE COURT: Okay.

3 MR. REED: I believe so. I think we took them -- it
4 was just an interest rate change and -- but the difference was
5 that they wouldn't touch my property because of the issue with
6 it.

7 THE COURT: Let me -- you're finished with your
8 questions, Ms. Hager?

9 MS. HAGER: Yes, Your Honor.

10 THE COURT: All right.

11 So Mr. Reed, you have an opportunity for redirect
12 testimony. Again, you can do it in narrative form. But any
13 additional testimony you give has to be limited to those issues
14 or testimony that Ms. Hager elicited. You don't have to. But
15 I'm giving you the same chance that any other lawyer for a
16 witness would have -- for a party would have. So if there's
17 anything responsive to what Ms. Hager asked you about, now is
18 your opportunity to provide --

19 MR. REED: Okay.

20 THE COURT: -- that testimony.

21 MR. REED: I guess I would like to flip through her
22 exhibits, because that might quickly jog my memory.

23 THE COURT: Okay, go ahead.

24 MS. HAGER: Excuse me, Your Honor, just so that we
25 know. How much time does the plaintiff --

1 THE COURT: He's out of time. I'm giving him an
2 opportunity to do a brief --

3 MS. HAGER: Sure.

4 THE COURT: -- redirect testimony.

5 MS. HAGER: Okay, thank you.

6 MR. REED: Thank you, Your Honor, for being patient.

7 THE COURT: Okay.

8 MR. REED: And --

9 THE COURT: But let's -- we want to get done,
10 Mr. Reed, so --

11 (Pause)

12 THE COURT: While we're waiting for Mr. Reed to go
13 through the documents, Ms. Hager, yesterday you moved to strike
14 the testimony of Ms. Donati, and I said I would give you a
15 chance to file written papers on that. When will you be able
16 to do that? Do you still intend to move to strike her
17 testimony?

18 MS. HAGER: May I have just one moment?

19 THE COURT: Yes, you can.

20 Keep looking at your -- the exhibits, Mr. Reed.

21 MS. HAGER: Your Honor, we're not going to move to
22 strike her testimony.

23 THE COURT: All right. Thank you very much.

24 MS. HAGER: Thank you.

25 (Pause)

1 MR. REED: Your Honor, the only thing that's troubling
2 me at this moment is the document that was allowed into
3 evidence today.

4 THE COURT: Which? You have to give me an exhibit
5 number.

6 MR. REED: The foreclosure -- oh, Exhibit YY.

7 THE COURT: Okay. It's not in evidence yet. They
8 have to lay a foundation for it. You had objected to the
9 exhibit. Do you now recognize it?

10 MR. REED: No, I'm still having trouble with this.

11 THE COURT: Right. So it's marked for identification
12 and there was questioning of you about it. We'll see whether
13 it comes into evidence. As of now, it's not in evidence but is
14 there something you want to testify about on the subject?

15 MR. REED: I don't know if I did when I was being
16 questioned about it. The -- the physical agreement doesn't
17 look like what I recalled in my mind, as I said. And then the
18 other element that's striking to me is -- I mean, there are
19 things in here I don't recognize but -- is the dollar amount.
20 I tendered 3,000 dollars. It's on the record. I send it in at
21 the time. This doesn't even mention 3,000 dollars and I don't
22 understand how this could be even related to it. Why would I
23 write a check for 3,000 dollars and send it to them? It's why
24 I send it to them because that's what -- that was part of
25 whatever the agreement is. Is this an additional thing that I

1 never saw? Is this something that they had but then sent me
2 something different? I can't answer that. But that's
3 troubling to me.

4 THE COURT: Okay. Anything else you want to testify
5 about?

6 MR. REED: No.

7 THE COURT: All right. So you're excused. Why don't
8 you pick up your papers and head back to the counsel table.

9 MR. REED: Your Honor, would you mind if I go to the
10 restroom quickly?

11 THE COURT: Sure. Let's take a ten-minute recess and
12 then you'll call your -- well, let me ask, before you take the
13 break, you don't have any other witnesses to call, I take it.
14 It's now. It's not another day.

15 MR. REED: Yeah.

16 THE COURT: Okay.

17 MR. REED: No, there's no -- no one else on my list.

18 THE COURT: Okay. All right. And you've introduced
19 whatever exhibits you're going to offer, as I understand it?

20 MR. REED: That's what I -- that's what I have, Your
21 Honor.

22 THE COURT: Okay. So what I do at the end of each
23 party's case is I ask whether they rest. That means that they
24 put in all of the evidence that they intend to offer in support
25 of their case. That's what it means to rest. And so my

1 question to you, Mr. Reed, do you rest?

2 MR. REED: Again, I can only say something about what
3 she asked me about, right? If I missed something in my
4 original testimony.

5 THE COURT: Correct. Your redirect testimony --

6 MR. REED: Uh-hum.

7 THE COURT: -- is limited to what Ms. Hager has
8 inquired about. Is there something that you -- I'm not
9 necessarily going to listen to it but I want to -- is there
10 some other area as to which you want -- I tried to give you
11 some leeway because you're not a lawyer, Mr. Reed. I do that
12 for any pro se party. So is there a --

13 MR. REED: I've seen you do it, Your Honor.

14 THE COURT: Okay.

15 MR. REED: I understand.

16 THE COURT: Is there some other area that you didn't
17 testify about in your direct that you want to testify about
18 now?

19 MR. REED: I can't recall if I mentioned another house
20 in our neighborhood that -- that recently had a similar
21 situation and how it, in my -- you know, my perception of what
22 took place and how it affected the value and how the sales took
23 place. Two houses down from us, same builder, house had
24 issues, litigation issues. Finally, someone bought it for
25 900,000 dollars, investors who waited it out, bought it. Once

1 that was done, within a couple of months, I think it was, they
2 sold it for a million-three because there was no -- they could
3 put on there a firm closing date, close whenever you need to
4 close. It was, you know -- and to me it demonstrated exactly
5 the same kind of thing that I was going through when my
6 neighbor had the situation.

7 THE COURT: All right.

8 MR. REED: And Munoz (ph.) -- Sharon Munoz was the
9 name of the neighbor.

10 THE COURT: Ms. Hager, do you want to cross-examine
11 him on the subject?

12 MS. HAGER: No, Your Honor.

13 THE COURT: Okay. All right. You're excused, Mr.
14 Reed. So we're going to take a ten-minute recess. Get
15 yourself re-settled after the break. Get yourself re-settled
16 at the counsel table. We're going to start with your -- Mr.
17 Reed, you rest, correct?

18 MR. REED: Yes, I don't --

19 THE COURT: Okay.

20 MR. REED: -- believe there's anything more.

21 THE COURT: All right.

22 MS. HAGER: Your Honor?

23 THE COURT: Yes.

24 MS. HAGER: I was going to ask if he rested. In light
25 of the fact that he has, the Borrower Trust moves for judgment

1 on the findings.

2 THE COURT: Denied. I want to hear your case.

3 MS. HAGER: Okay. Just needed to make the motion.

4 Thank you, Your Honor.

5 THE COURT: That's fine. You made your motion and I
6 ruled.

7 (Recess from 2:48 p.m. until 3:04 p.m.)

8 THE COURT: All right. Please be seated. Okay.

9 Are you ready to call your first witness?

10 MS. HAGER: Yes, Your Honor. Before I do that, can I
11 move the admission of a few documents?

12 THE COURT: Yes, you can.

13 MS. HAGER: Exhibit G, which is the complaint for
14 foreclosure.

15 THE COURT: Hang on. I thought that's already in.

16 MS. HAGER: It is? I'm sorry. Maybe as an
17 attachment.

18 THE COURT: Perhaps. Okay. Mr. Reed, this is the
19 foreclosure complaint that was filed against you in state
20 court. Any objections?

21 MR. REED: Which one, Your Honor?

22 THE COURT: Well, it's not the amended complaint.

23 It's the complaint. It's the original -- it's the complaint.

24 It's the GMACM complaint against you.

25 MR. REED: Okay.

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1 THE COURT: I think it's already in as another
2 exhibit.

3 MR. REED: I think it's under exhibit --

4 THE COURT: You have no objection?

5 MR. REED: No.

6 (GMACM foreclosure complaint was hereby received into evidence
7 as Trust's Exhibit G, as of this date.)

8 THE COURT: All right. It's in evidence.

9 MS. HAGER: Exhibit V which is Jacobses' motion for
10 summary judgment.

11 THE COURT: V as in Victor?

12 MS. HAGER: Yes.

13 MR. REED: I don't know how much that I might be able
14 to --

15 THE COURT: I'm sorry, I can't hear you.

16 MR. REED: I don't even know how to object to it, Your
17 Honor. I wouldn't know the contents of it to even --

18 THE COURT: Well, it was filed in the case that the
19 Jacobses filed against you and it has the official court stamp.
20 You know, it was served on your lawyer, Mr. McCrink and I could
21 grant judicial notice of it since this is an official court
22 pleading in a case in which you were a party. It's in
23 evidence. The Court's -- I'm taking it into evidence. The
24 Court could grant judicial notice to it.

25 (Jacobses' summary judgment motion was hereby received into

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1 evidence as Trust's Exhibit V, as of this date.)

2 MS. HAGER: And lastly, Exhibit W which is the opinion
3 granting summary judgment in favor of the Jacobses in the
4 Jacobs v. Reed case.

5 MR. REED: If you would like to do the same with that,
6 Your Honor, if it has a court stamp?

7 THE COURT: Well, why don't you look at it, Mr. Reed?
8 I suspect you've seen it before.

9 MR. REED: Which one is this?

10 THE COURT: W.

11 MR. REED: W.

12 THE COURT: Mr. Reed?

13 MR. REED: Yeah, Your Honor. I don't remember it but
14 I can formulate no objection.

15 THE COURT: All right. It's in evidence.

16 (Opinion granting Jacobses' summary judgment was hereby
17 received into evidence as Trust's Exhibit W, as of this date.)

18 MS. HAGER: Thank you, Your Honor. The Borrower Trust
19 would like to call its first witness, Lauren Graham Delehey.

20 THE COURT: All right. Ms. Delehey, come on up. If
21 you would come up to the witness stand, raise your right hand.

22 (Witness sworn)

23 THE COURT: Please have a seat. I think you've been
24 in this courtroom a lot but never in the witness stand.

25 DIRECT EXAMINATION

1 BY MS. HAGER:

2 Q. Good afternoon, Ms. Delehey.

3 A. Good afternoon.

4 Q. Ms. Delehey, who is your employer?

5 A. ResCap Liquidating Trust.

6 THE COURT: Hang on.

7 THE WITNESS: I'm sorry.

8 THE COURT: You need to get a little closer to the
9 microphone, okay? We want to make sure we get your testimony
10 down.

11 Q. What's your business address?

12 A. 1100 Virginia Drive in Fort Washington, Pennsylvania.

13 Q. And what is your present job title?

14 A. I am chief litigation counsel for the ResCap Liquidating
15 Trust.

16 Q. And can you describe your responsibilities as chief
17 litigation counsel to the Liquidating Trust?

18 A. Yes, I manage litigation for the Liquidating Trust. I
19 manage litigated claims for the Liquidating Trust and all
20 through a cooperation agreement between the Liquidating Trust
21 and the Borrower Claims Trust. I assist in the reconciliation
22 of claims for the Borrower Claims Trust.

23 THE COURT: Hang on. Just stop.

24 THE WITNESS: I'm still not close enough? I'm sorry.

25 THE COURT: Okay.

1 A. Also through a cooperation agreement with the -- between
2 the Liquidating Trust and the Borrower Claims Trust, I assist
3 in the reconciliation of claims for the Borrower Claims Trust
4 and handle litigated claims for the Borrower Claims Trust.

5 Q. And how long have you held the position of chief
6 litigation counsel to the Liquidating Trust?

7 A. Since the formation of the Liquidating Trust when the
8 ResCap Chapter 11 plan was -- went effective in January of this
9 year.

10 Q. And what's the Liquidating Trust's role with respect to
11 the loan made to the Reeds?

12 A. The Liquidating Trust through this cooperation agreement
13 that I mentioned, with the Borrower Claims Trust, the
14 Liquidating Trust's records are available to the Borrower
15 Claims Trust and also our personnel are available to assist the
16 Borrower Claims Trust in retrieving and reviewing those
17 records.

18 Q. Who was your prior employer?

19 A. Residential Capital, LLC.

20 Q. And what was your job title with Residential Capital, LLC?

21 A. Most recently, I was also chief litigation counsel for
22 Residential Capital and I held that position from the time that
23 we turned over our servicing platform in the sales through the
24 bankruptcy in early 2013.

25 Q. And were your responsibilities as chief litigation counsel

1 at Residential Capital, LLC similar to your job function today?

2 A. Yes, very similar.

3 Q. Did you hold a prior position at Residential Capital?

4 A. Yes, I -- I've worked for Residential Capital since August
5 of 2011 as litigation counsel. In that role, it was slightly
6 different prior to the bankruptcy. I managed litigation for
7 ResCap, both class action litigation and also individual
8 litigation related to residential mortgages.

9 Q. And as litigation counsel for the Liquidating Trust, are
10 you generally familiar with the debtors business records and
11 how they're kept?

12 A. I am.

13 Q. Do you have access to GMAC Mortgage's records?

14 A. Yes.

15 Q. And do you have access to RFC's records?

16 A. Yes.

17 Q. And are you generally familiar with how those records are
18 kept?

19 A. Yes.

20 Q. What is the name of the computer program on which the
21 computers -- on which the records are kept?

22 A. We have several different computer programs that we've
23 retrieved records from. For example, we keep the servicing
24 records on a computer program called Fiserve or Loan Serve. We
25 maintain imaged records in a program called Looking Glass. We

1 maintain records of documents that have gone out to borrowers
2 in a program called XNet and XNet also sometimes contains items
3 that came back in from the borrower.

4 Q. And have you had the opportunity to review the origination
5 records on the Reed loan?

6 A. Yes.

7 Q. And have you had the opportunity to review the servicing
8 and collection records for the Reed loan?

9 A. Yes.

10 Q. And is the Reed loan presently being serviced by the
11 debtors?

12 A. No.

13 Q. I've left some exhibits up there for you and I think I
14 have them in order. If you could take a look at the first
15 exhibit, that should be Exhibit A --

16 A. Yes.

17 Q. -- which is the servicing notes.

18 A. Uh-hum.

19 Q. What information is contained in this document?

20 A. These are the servicing notes maintained by GMAC Mortgage.
21 They are a contemporaneous record of communications with the
22 borrower from the time that GMAC Mortgage took over the
23 servicing in June -- on June 27th of 2006. And GMAC's portion
24 of these go through the time that we relinquished servicing to
25 Ocwen on February 15th of 2013.

1 Q. Was this document printed from the debtors system of
2 record?

3 A. Yes, it was.

4 Q. And is this a business record that's kept in the ordinary
5 course?

6 A. Yes, it is.

7 Q. And were all of the notes made in this document up to
8 February 14th, 2013, made by GMAC Mortgage employees?

9 A. Yes.

10 Q. Was it GMAC Mortgage's regular practice to create and
11 maintain this document?

12 A. Yes.

13 MS. HAGER: Your Honor, I would like to move to admit
14 Exhibit A into evidence.

15 THE COURT: Mr. Reed?

16 MR. REED: I would object but I imagine it's not going
17 to --

18 THE COURT: What's your objection? You went to offer
19 a portion of it but that doesn't matter. But if you have an
20 objection, I'd like to know what it is.

21 MR. REED: My objection is about the redacted section.

22 THE COURT: Well, I was going to ask about the
23 redaction. Maybe -- before I rule, why don't you ask what the
24 redactions are. Just say --

25 MS. HAGER: Oh, ask --

1 THE COURT: Yeah, why don't you ask the witness.

2 MS. HAGER: Well, the redactions were made by my
3 office that were redactions for attorney-client privilege
4 because the document contains -- contained communications
5 between GMAC Mortgage and its foreclosure attorneys.

6 THE COURT: So --

7 THE WITNESS: I could talk about that a little bit.

8 THE COURT: Yeah, could you. Please.

9 THE WITNESS: I -- I don't have what was redacted in
10 front of me and I certainly don't recall what was redacted but
11 when -- we have a system called or we did have a system called
12 LPS Notes which was the system in which the servicing at GMAC
13 Mortgage communicated back and forth with its foreclosure
14 attorneys. And notes were placed in that system either by the
15 servicing group that the foreclosure attorneys could pull them
16 up and see them or vice versa. Notes that the foreclosure
17 attorneys placed into our LPS system would be uploaded and
18 entered in this automatically, into the servicing notes. So I
19 believe that's the source of what was redacted.

20 THE COURT: Well, somebody's physically stamped
21 redacted on certain pages. Could you -- the pages aren't
22 numbered, so -- well, the cover page says redacted. Could you
23 tell me -- do you have any idea what was redacted on the cover
24 page?

25 THE WITNESS: It was the Social Security number on the

1 top right was redacted but for the last four numbers.

2 THE COURT: Where are the last four numbers?

3 MS. HAGER: Top left.

4 THE COURT: Top left.

5 THE WITNESS: I'm sorry.

6 MS. HAGER: That's okay.

7 THE WITNESS: Top left.

8 THE COURT: All right.

9 MR. REED: Your Honor, I don't know if that's truly
10 the basis of the redaction. I mean, I --

11 THE COURT: It is. We have a policy in our court. We
12 don't want documents coming in with a borrower's Social
13 Security number.

14 MR. REED: Oh, no, I mean --

15 THE COURT: And so that --

16 MR. REED: -- I mean all of the --

17 THE COURT: Stop. So with respect to that first
18 redaction, that's consistent with our rules.

19 THE WITNESS: And --

20 THE COURT: It's intended to protect borrowers. But
21 let me just -- let me ask some more questions, Mr. Reed.

22 So go through to the next redacted entry. I think
23 it's with a date 5/19/2008.

24 THE WITNESS: Oh, I found -- oh, never mind.

25 THE COURT: You found something before then?

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1 THE WITNESS: I'm sorry. No, I didn't. I'm sorry.

2 Yeah, I see that.

3 THE COURT: Do you know what that redaction is for?

4 THE WITNESS: I don't know what it said. However, if
5 you look at the second column at the front, it's labeled
6 transaction type. FOR is in that column and that -- that's an
7 indication of foreclosure notes. So it leads me to believe
8 that that would have been something that was either uploaded
9 for our foreclosure lawyers or from our foreclosure lawyers.

10 THE COURT: Everything with an FOR entry has been
11 updated -- uploaded for your foreclosure lawyers?

12 THE WITNESS: That's my understanding. Everything --

13 THE COURT: But not everything would be privileged.

14 THE WITNESS: No, and you'll see that below, like on,
15 you know, lower in 5/19 there are foreclosure notes that are
16 still in there and it's not necessarily -- I'm trying to see --
17 it's not necessarily that it would be -- everything in there
18 would be sort of privileged communications between attorneys
19 and the foreclosure group. It's just that when it says
20 foreclosure, it's that type of notes. It's notes relating to
21 the foreclosure.

22 THE COURT: So let me just understand where the
23 redaction is. The last column on that page that has the 5/19
24 date at the very bottom, there -- in the last column there are
25 some blank --

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1 THE WITNESS: Yes.

2 THE COURT: -- lines. Is that where the redactions
3 have occurred?

4 THE WITNESS: Yes, it is.

5 THE COURT: If -- absent a redaction, should there be
6 entries in each of the blanks in the column --

7 THE WITNESS: Yes.

8 THE COURT: -- the last column? All right, Ms. Hager,
9 tell me what counsel -- who redacted this? Was it done by
10 counsel? Was it done by ResCap?

11 MS. HAGER: It was done by counsel in my office, Your
12 Honor.

13 THE COURT: And we're seeing the redaction on the
14 first page is of a Social Security number. Are all the other
15 redactions attorney-client privilege?

16 MS. HAGER: There is another on the first page, Your
17 Honor, that is to account number, just above the Social
18 Security number.

19 THE COURT: Yes.

20 MS. HAGER: And my understanding is that the remaining
21 were redacted due to attorney-client privilege, yes.

22 THE COURT: Did you provide a privilege log?

23 MS. HAGER: Your Honor, I beg your pardon?

24 THE COURT: Did you provide a privilege log?

25 MS. HAGER: We didn't but my colleague has just

1 informed me that the servicing notes were previously shown to
2 the Court in the September 15th and 16th evidentiary hearing,
3 an unredacted version.

4 THE COURT: Okay. I have -- one of my law clerks just
5 handed me a binder with supplemental September 15, 16
6 evidentiary hearing materials regarding proofs of claim by
7 Frank and Christina Reed. And it's provided for in camera
8 review and -- let me see if I can match some of this up.

9 (Pause)

10 THE COURT: The objection is overruled. Exhibit A is
11 in evidence.

12 (Servicing notes were hereby received into evidence as Trust's
13 Exhibit A, as of this date.)

14 MS. HAGER: Thank you, Your Honor.

15 BY MS. HAGER:

16 Q. Ms. Delehey, could you take a look at the next exhibit
17 that I have up there is your declaration which was already
18 admitted into evidence as Exhibit 9.

19 A. Yes.

20 Q. Do you have that? Okay. Do you recognize that document?

21 A. Yes, I do.

22 Q. And did you swear under oath that the information
23 contained in the declaration is true and correct?

24 A. I did.

25 Q. And do you still believe that it's accurate today?

1 A. I do.

2 Q. And did you submit a supplemental declaration?

3 A. I did.

4 Q. And could you take a look at that? That has been
5 previously admitted. It's marked as Exhibit 10.

6 A. Yes, I have it.

7 Q. Do you recognize that document?

8 A. Yes.

9 Q. And did you swear under oath that the information
10 contained in the supplemental declaration is true and correct?

11 A. Yes.

12 Q. And do you still believe that today?

13 A. Yes.

14 Q. Did Mr. and Mrs. Reed make all the payments as when due
15 under the note and mortgage?

16 A. No, they did not.

17 Q. And in what month and year did the loan become delinquent?

18 A. If you look at -- at the notes for --

19 THE COURT: Looking at Exhibit A? Servicing notes?

20 THE WITNESS: I'm sorry, yes. I'm on Exhibit A.

21 THE COURT: Okay.

22 A. And if you'll look at the notes for March 14th of 2008,
23 you'll --

24 THE COURT: Just bear me with a second. Okay?

25 THE WITNESS: Yup.

1 THE COURT: Okay.

2 A. Those indicate that the account is thirty days late at
3 that point and I'm sorry, could -- turn back, in fact, to the
4 previous page, the notes for February 21st, 2008, indicate that
5 there's a request for a pre-thirty contact letter. That means
6 a contact letter that would go out to the borrower letting them
7 know that their account is nearing thirty days delinquent.

8 THE COURT: Ms. Delehey, do the servicing notes
9 indicate when GMAC collected principal and interest payments --
10 do the servicing notes show to whom the payments were then
11 made? Because you collect on behalf of the noteholder and is
12 there anything in the servicing notes that would indicate to
13 whom payments were made from GMACM to the investor or
14 noteholder?

15 THE WITNESS: Not to my knowledge.

16 THE COURT: Okay. Go ahead.

17 Q. Ms. Delehey, could you take a look please at page 3 of
18 Exhibit A and can you explain the entry on October 18th, 2007?

19 A. Yes, that is a note from -- put in there by someone in
20 GMAC Mortgage's tax group. It indicates that they received a
21 report from Moorestown Township, New Jersey, indicating that
22 the taxes on this loan have been delinquent since the fourth
23 quarter of 2006 and that the mortgage was in tax sale. It
24 indicates also that there have been no taxes paid up until that
25 point in 2007.

1 THE COURT: Walk me through the notes, so that I
2 understand it.

3 THE WITNESS: Uh-hum.

4 THE COURT: Okay.

5 THE WITNESS: "Received" -- honestly, I don't know
6 what EOC means but --

7 THE COURT: Okay.

8 THE WITNESS: -- it's "received report from Moorestown
9 Township, New Jersey."

10 THE COURT: Right.

11 THE WITNESS: "Per Dorothy," who I believe was the
12 person who called or -- "delinquent '06" -- that's 2006,
13 "fourth quarter, was in tax sale" -- "was in tax sale on
14 October 11th, 2007."

15 Then it indicates the total redemption amount for that
16 2006 tax issue was \$1,892.44. Then it goes on to say --

17 THE COURT: What's "GT 10/26"?

18 THE WITNESS: I -- I am not sure what that means.

19 THE COURT: All right. Go ahead.

20 THE WITNESS: And it goes on to say on the next line,
21 "Also delinquent 2007" and it -- then it lists -- lists the
22 delinquencies, "February 2007, \$7,425.68, May 2007, \$7,425.68,
23 August, \$7,948.71." These seem to be notes on our -- our
24 principal and interest. It says, "A delinquency in November
25 2007, \$7,948.71." And it says, "Grand total for 2007 taxes,

1 \$32,683.61."

2 THE COURT: What does the "on a separate check" mean?

3 THE WITNESS: GMAC Mortgage had to redeem the tax
4 delinquency.

5 THE COURT: All right. So do I -- I understand from
6 the note that you've just read that GMAC advanced \$32,683.61 to
7 satisfy the delinquency.

8 THE WITNESS: That's correct. That amount plus the
9 \$1,892.44 from 2006.

10 THE COURT: Okay. Go on.

11 BY MS. HAGER:

12 Q. Prior to -- prior to the tax sale, did the monthly payment
13 include escrows for taxes and insurance?

14 A. It did not.

15 Q. And did the monthly payment subsequently include escrows
16 for taxes and insurance?

17 A. Yes, the notes -- the next -- the next notes that come up
18 and it looks like they're on November 6th of 2000- -- no, wait.
19 Oh, wait. I see. I'm sorry. At the very bottom of the
20 October 18th, 2007, it indicates that we changed the loan to
21 escrow and that would mean that from that point forward or from
22 a defined point forward, we were going to start paying the
23 taxes directly and the borrower would be obligated to pay the
24 taxes in escrow to us.

25 Q. And why was that change made?

1 A. Well, because when, for example, we get -- we have a
2 situation where the borrower's not making their taxes, exactly
3 this can happen. The property can be subject to a tax sale and
4 that would -- that threatens our collateral. So it's important
5 to us that the taxes be paid in a timely manner.

6 Q. Further down on page 3 of Exhibit A, can you explain the
7 entries on December 6th and December 12th, 2007?

8 A. Yeah, on December 6th, it indicates that we're going to
9 instead of starting immediately on the December 1st, 2007 and
10 January 1st, 2008 payments as escrow, we're going to instead
11 accept those payments as principal and interest only and start
12 the escrow payments on February 1st of 2008.

13 Q. Were any attempts made to contact the borrowers after the
14 February payment wasn't made?

15 A. Yes. When, in fact, you -- in fact, looking back, you can
16 see that we started because -- because we knew that the taxes
17 weren't being paid, we started to try to contact the borrower,
18 for example, on March 5th of 2007 in those -- that second
19 column where it says DMD, that means -- I believe it means
20 delinquency message for dialers but in essence what it is is
21 that when the servicing agents call a borrower, the phone
22 system automatically records in these notes, you know, that
23 there was a call and sort of the physical outcome of the call.

24 So you're seeing in early 2007, they tried to call. There
25 was no answer. In April 5th, 2007, they tried to call. There

1 was -- they left a message on the machine. After -- and that
2 kind of goes -- goes on. After the payment wasn't made in
3 February of 2008, you can see that we start with attempts on --
4 a number of attempts on "February 12, 2008, no answer. Left
5 message. No answer." I'm not sure what "par 3 connect" means
6 but, "Left message. Left message." Again, some attempts on
7 February 20th. Some attempts on February 25th.

8 And, in fact, as I was reviewing it last night, I went
9 through and did my best to count the number of attempts and by
10 my count, there were at least thirty attempts to contact the
11 Reeds between the time they stopped -- they didn't make the
12 payment in February of 2008 and January of 2009.

13 Q. Can you explain the note on April 20th?

14 MR. REED: What was the date? I'm sorry.

15 MS. HAGER: April 28, 2008.

16 THE COURT: 28? You said 20th, but --

17 MS. HAGER: Oh, I beg your pardon; 28th.

18 A. Yes, on April 28th of 2008, a HOPE NOW letter was sent to
19 the Reeds. HOPE NOW -- and this is noted in the notes. HOPE
20 NOW is a partnership between non-profit housing counselors and
21 the mortgage companies. GMAC is a member of that partnership
22 and it -- the purpose of it is to try to help borrowers stay
23 out of foreclosure.

24 Q. And did the Reeds contact GMAC Mortgage in response to the
25 April 2008 HOPE NOW letter?

1 A. No, they didn't.

2 Q. Was another -- excuse me, was another HOPE NOW letter
3 subsequently sent out?

4 A. Yes, in fact, it appears that letters were sent out on a
5 regular basis, basically monthly. So if you look on May 29th,
6 2008, one goes out and then on June 25th of 2008, one goes out
7 and then on July 23rd of 2008, one goes out. And I can see
8 when those go out because in the third column, it indicates
9 "HNOW" which means HOPE NOW.

10 Q. So is each of those letters an attempt to provide
11 assistance to a borrower?

12 A. Yes, it is.

13 Q. And can you explain the note on July 26th?

14 A. Yes, on July 26th, 2008, Mr. Reed attended a face-to-face
15 meeting with HOPE NOW representatives in Camden.

16 Q. Have Mr. Reed ever taken any action with GMAC Mortgage in
17 response to the May or June HOPE NOW letters?

18 A. No.

19 Q. Or did he ever take any action in response to the April
20 HOPE NOW letter?

21 A. No, there was no contact from him in response to any of
22 those letters or anything else during that time period.

23 Q. And can you explain the note on July 31st, 2008?

24 A. Yeah, when Mr. Reed met with the HOPE NOW representative
25 on July 26th, and I'm looking back up at the -- those notes, he

1 indicated that he had breached the contract in December of
2 2007, that he had his home on the market and thought that he
3 might be looking at a potential offer, that he didn't wish to
4 go further into foreclosure and he explained to the HOPE NOW
5 representative that he could afford to pay 7,000 dollars per
6 month for three months. He told the HOPE NOW representative
7 that he would send him a copy of the listing agreement.

8 And as a result of that interaction, the HOPE NOW
9 representative sort of referred -- they call it referring it to
10 the platform, meaning they referred it to servicing in a --
11 hoped to set up a stop gap agreement. So the note on July 31st
12 is -- is them forwarding the stop gap request to the servicing
13 group.

14 Let's see if it goes on. They're indicating what -- what
15 they're indicating in the referral is that they want to do a
16 plan with a 3,000 dollar down payment and 7,000 dollars due on
17 August 30th and September 30th until the house sells.

18 And then it looks like a GMAC representative spoke
19 directly with Mr. Reed about this stop gap on August 1st.

20 Q. And what does stop gap mean?

21 A. A stop gap is an arrangement that's designed to allow the
22 borrower time to get the -- get the mortgage -- the loan back
23 into compliance and avoid foreclosure.

24 THE COURT: What's the first entry on August 1st,
25 2008, "promise broken"?

1 THE WITNESS: The -- according to the conversations
2 that the borrower had with GMAC Mortgage, GMAC Mortgage's
3 expectation was that the borrower was going to fax the signed
4 agreement and deliver the 3,000 dollar down payment on August
5 1st. It didn't happen that way.

6 Q. Is a stop gap the same thing as a loan modification?

7 A. No, it's not the same thing. It's not -- it doesn't
8 change the terms of the loan or the -- the maturity date of the
9 loan or anything like that. It just -- it just allows the
10 borrower time to bring the loan back current. There aren't --
11 there aren't any sort of grace periods in it or anything like
12 that. It's just set up to get things done on an exact schedule
13 and if things are done on that exact schedule, then the
14 foreclosure is stalled. It's not -- we don't withdraw the
15 foreclosure or stop it but we'll hold off -- hold off on it,
16 while they -- while the borrower is making payments in
17 accordance with the strict agreement.

18 THE COURT: Let me ask you, on the entries for July
19 31st, 2008 --

20 THE WITNESS: Uh-hum.

21 THE COURT: -- so I see the "Please see e-mail
22 referencing this loan number for a stop gap plan with 3,000
23 down today via WUQC." Do you know what the WUQC is?

24 THE WITNESS: I do not. I don't know off the top of
25 my head.

1 THE COURT: And then it says, "7K" -- 7,000 -- "on
2 August 30th and September 30th until house sells."

3 THE WITNESS: Uh-hum.

4 THE COURT: Is it your understanding from this that
5 the Reeds were supposed to pay 7,000 dollars on August 30th and
6 September 30th in lieu of whatever regular mortgage payments
7 that were due?

8 THE WITNESS: Yes. And it really was -- in fact, if
9 you'll look one day forward on the notes that were reflecting
10 the actual conversation with the borrower, it's not just -- it
11 wasn't just until the house sells, it was that he was supposed
12 to pay the 3,000 dollars immediately and installment amounts of
13 7,000 dollars for six months.

14 And on that day when he talked with the GMAC
15 representatives, the notes indicate that they proposed to go
16 over the financials of it and essentially discuss, you know,
17 whether he could afford it, what kinds of resources he had but
18 that he indicated that because he was trying to sell the house,
19 he had no need to go over the financials. He just wanted time
20 for a sale that was in progress to get finalized.

21 THE COURT: Where do you see that?

22 THE WITNESS: Late in the -- towards the bottom of
23 the -- I'm sorry, August 1st notes it says, "Justification for
24 resolution chosen is able to provide listen agreement that
25 qualify for one month plan to give time for sale" -- I don't

1 know what SPO but they mean sale -- maybe it means sale
2 proposed or something like that -- "to get finalized."

3 Up towards the top, it indicate -- like the -- I guess
4 it's -- the first note that has -- that says note in the third
5 column, the last column says, "Ask customer about resources,
6 savings, 401(k), IRA, family, friends, church group. Customer
7 stated no resources available to reinstate the account." It
8 indicates that, "We advised of the terms and the payment
9 options, that there's no grace period in this agreement, late
10 fees and talked to him about credit implications and what a
11 potential future breach would mean for the foreclosure
12 process."

13 Then it -- further down it talks about that we took
14 the borrower's financials, that the deposit amount would be
15 3,000 dollars, that the installment amount would be 7,000
16 dollars, that the term of the plan would be six months.

17 And this note that says, "Surplus is 125 dollars," my
18 understanding is that means that if he made the -- all of the
19 required payments, the 3,000 and all of the 7,000 dollar
20 payments, he would have an excess of 125,000 dollars over what
21 was required to make up the total of what's due at this point.

22 THE COURT: Okay. Go ahead. Ms. Hager, go ahead.

23 MS. HAGER: Yes.

24 BY MS. HAGER:

25 Q. And was a forbearance agreement generated and sent to the

1 borrower?

2 A. It was.

3 Q. And can you take a look at what was marked as Exhibit YY?

4 A. Yes.

5 Q. Do you recognize that document?

6 A. Yes. This --

7 Q. Was --

8 A. I'm sorry.

9 Q. Was this a document that was printed from the debtors
10 system of record?

11 A. It was. This was -- this is called a foreclosure
12 repayment agreement. It would have -- it was faxed to the
13 borrower -- sent to the borrower after this conversation on
14 August 1st where all of the terms are laid out.

15 THE COURT: How do you know it was faxed to him on
16 August 1st?

17 THE WITNESS: Because it's dated August 1st up here.
18 And this is a letter that would be automatically generated by
19 the system based on the notes that the servicing representing
20 is entering into the system on August 1st.

21 Q. Is this a business record that's kept in the ordinary
22 course?

23 A. Yes, it is. This was pulled from our XNet system that
24 keeps copies of correspondence that goes out to borrowers.

25 Q. And was it GMAC Mortgage's regular practice to create and

1 maintain this document?

2 A. Yes.

3 MS. HAGER: Your Honor, I would like to move the
4 admission of Exhibit YY.

5 MR. REED: Your Honor, I object.

6 THE COURT: Overruled. Document -- Exhibit YY is in
7 evidence.

8 (Foreclosure Repayment Agreement was hereby received into
9 evidence as Trust's Exhibit YY, as of this date.)

10 Q. If you could turn to Exhibit ZZ.

11 A. Yes.

12 Q. Do you recognize this document?

13 A. I do. This is the last -- this is what is the same thing
14 as the last page of Exhibit YY, only this is the signature page
15 that Mr. Reed signed on August -- it looks like August 8th,
16 2008 and returned to GMAC Mortgage. And simultaneously or
17 almost simultaneously, he would have -- he returned the 3,000
18 payment -- down payment.

19 Q. And for our purposes today, was this document printed from
20 the debtors system of record?

21 A. Yes, this came out of our imaging system which is called
22 Looking Glass and that's the system that actually saves things
23 that we scan an image into the system. So when this came in
24 from Mr. Reed, we did countersign it and scan it into our
25 system.

1 Q. And is this a business record that's kept in the ordinary
2 course?

3 A. Yes, it is.

4 Q. Was it GMAC Mortgage's regular practice to create and
5 maintain this document?

6 A. Yes, it was.

7 Q. And it was GMAC Mortgage's practice to maintain the
8 signature page in its system of record, is that right?

9 A. Yes.

10 Q. Okay.

11 MS. HAGER: I'd like to move the admission of Exhibit
12 ZZ.

13 MR. REED: I object.

14 THE COURT: Overruled. Exhibit ZZ is in evidence.

15 (Signature page of Foreclosure Repayment Agreement was hereby
16 received into evidence as Trust's Exhibit ZZ, as of this date.)

17 THE COURT: Let me ask a couple of questions.

18 THE WITNESS: Uh-hum.

19 THE COURT: In the upper right portion of Exhibit ZZ
20 or -- is some handwriting. It looks like "Received 8/8/08."

21 THE WITNESS: Yes.

22 THE COURT: "Mailed from GMAC 8/4/08." Do you know
23 who that handwriting is?

24 THE WITNESS: I don't know but I would think that it
25 would be the person who scanned it into the system.

1 THE COURT: All right. And there is a completed
2 signature on the servicer line with a date of 9/4/08. Do you
3 know who that is?

4 THE WITNESS: I don't know the name and it's a little
5 hard to read but it should be -- it's a GMAC employee.

6 THE COURT: Do you know whether the countersigned
7 agreements or YY is the agreement and ZZ is the signature page,
8 it shows two signatures on it. Do you know whether a copy of
9 the fully signed agreement or at least of the signature page
10 was returned to the Reeds?

11 THE WITNESS: No, it wouldn't have been our practice
12 to do that.

13 THE COURT: Well, when I read the above the servicer
14 signature line, "Upon receipt of the signed agreement, we as
15 the servicer will also execute to indicate our concurrence with
16 this agreement." If a copy of it isn't mailed to the borrower
17 how are they supposed to know that GMAC has concurred with the
18 agreement?

19 THE WITNESS: Well, my understanding is that based on
20 the telephone conversations that they have, the terms of the
21 agreement are fully laid out in the telephone conversations,
22 the dates and all of the implications of not meeting those
23 dates.

24 If the borrower were to call and ask for a copy of YY,
25 after it was sent to them or ask for a copy of YY and ZZ after

1 we had it, we certainly would have sent it back to him but it
2 wasn't the regular practice of GMAC to mail those back.

3 So when we received the document and countersigned it
4 and put it into our system, we immediately stopped the
5 foreclosure efforts in the anticipation of receiving the
6 payments according to the agreement.

7 THE COURT: Okay, go ahead.

8 BY MS. HAGER:

9 Q. Does it state anywhere in Exhibit YY that statements or a
10 coupon book would be sent?

11 A. No, and I have no knowledge of any kind of coupons being
12 mailed out on any of the -- that type of item and it -- it
13 really wouldn't be a coupon situation because it's not changing
14 the terms of the loan. It's a very short-term thing. It's
15 just trying to help a person regain their compliance with the
16 loan.

17 Q. And can you explain the note on August 11th, 2008, the
18 last line of the notes on that date?

19 A. Where it says "Repaid plan late, phoned" or "Plan grace
20 extended"?

21 Q. Sorry, on the August 11th --

22 A. Oh, I'm sorry, I went to 13th.

23 Q. Right, August 11th, the last line, "Plan grace".

24 A. Yeah, as I said before, the expectation was when -- when
25 the GMAC representative spoke with Mr. Reed on the 1st, the

1 expectation was that the funds were to be immediately forwarded
2 to GMAC. Essentially, we would have expected to get them on
3 the 1st. That didn't happen, and so we followed up with a
4 phone call to say what's happening with that payment, we're
5 expecting that payment, can -- you know, basically, can we go
6 forward with this forbearance agreement.

7 THE COURT: When was the phone call?

8 THE WITNESS: August 13th.

9 THE COURT: Okay. And what is -- for the last August
10 11th entry, in the second column, the code RPE?

11 THE WITNESS: I -- I am not certain. Oh, but I'm
12 guessing now.

13 THE COURT: Don't guess. We don't want guesses.

14 THE WITNESS: Okay.

15 THE COURT: I can guess too.

16 THE WITNESS: But the note says "Plan grace extended
17 to August 18th", so we essentially said -- you know, we called
18 the next day and we said we haven't gotten this 3,000-dollar
19 payment, are you going to send it; we'll accept it up till
20 August 18th.

21 THE COURT: Okay.

22 Q. And on August 18th, were the documents received from the
23 Reeds?

24 A. They were, and the note says "Received executed documents,
25 completed August 18th".

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1 Q. And was the required down payment of 3,000 dollars made?

2 A. Yes, it was. It -- and right above that it says "Repay
3 deposit received".

4 THE COURT: Where was that? I'm sorry.

5 THE WITNESS: On August 18th.

6 Q. On August 20th --

7 THE COURT: Hold on; I don't see that --

8 MS. HAGER: I'm sorry.

9 THE COURT: -- yet. I want --

10 THE WITNESS: Oh, there are a lot of notes on --

11 THE COURT: There are, and we're roughly how many
12 lines from the bottom, on August 18th?

13 THE WITNESS: It's about eight lines from the bottom
14 on August 18th, and it happens to be in capital letters, so it
15 kind of stands out, "Received executed documents, completed
16 August 18th, 2008".

17 THE COURT: Okay. I see that.

18 THE WITNESS: And right above that it indicates "Repay
19 deposit received", and that -- that means the 3,000 dollars.

20 THE COURT: All right. Do you know what the next
21 August 18th entry means?

22 THE WITNESS: It -- it means that there's a Social
23 Security change -- number change. And a little bit further
24 down it says "Advised by borrower 1", and that would be Mr.
25 Reed, "Social Security number incorrect, updated per credit

1 report". So it seems like somewhere, either on -- somewhere we
2 had indicated an incorrect Social Security number and corrected
3 it.

4 THE COURT: All right. Go ahead, Ms. Hager.

5 BY MS. HAGER:

6 Q. On August 20th, on the next page, six lines down, can you
7 explain that note that starts with "Reason"?

8 A. That is -- you can see it's a fore -- it's reporting about
9 foreclosure activity. And it says that the motion for summary
10 judgment was -- has been adjourned.

11 Q. And on September 1st, can you explain that note?

12 A. "Promise broken, September 1st, 2008"; that -- that means
13 that the scheduled payment on the repayment plan that had been
14 due on September 1st was not made.

15 Q. So what happened to the forbearance agreement at that
16 point?

17 A. Well, we reached out to him on September 3rd. It
18 indicates "Called, delinquent repay". And then there's the
19 note that we received, the sign agreement -- the signed
20 agreement. But there were no further payments made on -- on
21 this repayment agreement.

22 Q. Now, in May -- on May 10th, 2009, can you explain the
23 first entry?

24 A. Yes.

25 THE COURT: Can you hold on a second? Where is it?

1 MS. HAGER: May 10th, 2009.

2 THE COURT: All right. Are you ready, Mr. Reed?

3 MR. REED: I am getting there. Okay.

4 THE COURT: All right. Go ahead.

5 A. On May 10th, he was -- and you'll see that he's still
6 delinquent; we're getting ready to start a foreclosure again.
7 But he was approved for a permanent loan modification on -- on
8 May 10th, 2009. And then -- and the note goes on to explain
9 the exact terms of it. There was a contribution of 310 dollars
10 due on May 25th. The -- the unpaid balance was adjusted.
11 The -- it looks like the escrow -- it looks like the escrow was
12 adjusted as well. The interest rate was reduced from 6.375 to
13 4.375. The term was extended so that the maturity date would
14 now be out to 2049. The payments went down a little bit, the
15 principal and interest payments. The principal interest taxes
16 and -- and insurance also went down by, it looks like, about
17 3,000 dollars, 3,200 dollars. So it indicates that we tried to
18 contact him. We weren't able to contact him, but the -- the
19 loan mod was approved. So it was sent out to him and -- and he
20 was approved for it.

21 Q. Can you explain the note on July 9th, 2009?

22 A. That indicates that we never received the executed loan
23 mod docs back.

24 THE COURT: Looking back to the May 10th, 2009 --

25 THE WITNESS: Um-hum.

1 THE COURT: -- the entries about the loan
2 modification. Are there entries before that about negotiations
3 or discussion about loan modification with Mr. Reed?

4 THE WITNESS: Let me see.

5 THE COURT: I mean, I see the entry for May 7th,
6 "LMT"; I assume that's a loan modification.

7 THE WITNESS: Well, I -- you know --

8 THE COURT: "Solution pursued; completed 5/7".

9 THE WITNESS: Oh, yeah, and -- and it also indicates
10 that we received a completed financial package from the
11 borrower on --

12 THE COURT: Okay.

13 THE WITNESS: -- May 7th.

14 THE COURT: Are there any entries before May 7th to
15 indicate that a loan modification was proposed, applied for,
16 discussed, anything of that sort?

17 THE WITNESS: You know, the earlier ones on May 7th
18 are indicating that -- that we're -- that we want to consider
19 it.

20 (Pause)

21 MS. HAGER: If I could direct the witness' attention
22 to two different entries; one is on March 31st, 2009, and the
23 other April 7th, 2009. Are either of those helpful in
24 answering the Judge's question?

25 THE COURT: Well, I see the April 7th entry, "Home

1 affordable modification program sent to borrower". That's on
2 April 7th.

3 THE WITNESS: Yeah, I can't tell, honestly, from the
4 later notes, why, specifically, the borrower sent in a
5 financial package. But it's clear that we received a financial
6 package and therefore approved him for -- for a permanent loan.

7 THE COURT: So this was a HAMP modification?

8 THE WITNESS: I -- actually, if I recall, I think it
9 was not --

10 THE COURT: Okay.

11 THE WITNESS: -- a HAMP modification. I think -- I
12 have to find the notes, because my memory was that it wasn't a
13 HAMP modification. But --

14 THE COURT: Okay.

15 THE WITNESS: -- I'm not reading that in the notes so
16 much.

17 THE COURT: Is there a written agreement that reflects
18 an agreement between GMAC and the Reeds for a loan modification
19 on the terms you've identified?

20 THE WITNESS: No, there's not, because we received a
21 financial package and we -- we would have sent -- sent a loan
22 modification offer out to him. We never received anything
23 executed back from him.

24 THE COURT: Are there any -- are there exhibits that
25 reflect the proposed loan modification that was sent to the

1 Reeds? In other words, these notes reflect terms. One would
2 presume they were set forth in a writing that was sent to the
3 Reeds. Is that correct or incorrect?

4 THE WITNESS: One would presume, but I do not have
5 that document with me. I'm not saying that it -- that it
6 doesn't exist, but I -- I haven't pulled that document.

7 THE COURT: So for April -- excuse me, May 10th, 2009,
8 there are some entries that are all caps, maybe eight, nine
9 lines from the bottom.

10 THE WITNESS: Um-hum.

11 THE COURT: "Modification approved". I don't know
12 what INV is.

13 THE WITNESS: By investor.

14 THE COURT: Okay. "Completed 5/10/09".

15 THE WITNESS: Um-hum.

16 THE COURT: Is there any indication who the investor
17 is?

18 THE WITNESS: No, not in these notes.

19 THE COURT: Where would one look if you wanted to see
20 who the investor was?

21 THE WITNESS: If I wanted to see who the investor was
22 at that time, I would be able to pull up the screen on -- on
23 our search system and see it. I don't have that in front of me
24 today.

25 THE COURT: Go ahead, Ms. Hager.

1 Do you know who owned the loan in May 2009?

2 THE WITNESS: I would have to -- I -- I think I might
3 have -- have indicated that in my declaration, because I -- I
4 know that at some point in 2009 RFC started to own the loan,
5 but I -- off the top of my head I don't know the answer.

6 THE COURT: Okay. Go ahead, Ms. Hager.

7 BY MS. HAGER:

8 Q. The loan modification that you were just discussing, for
9 May of 2009, that was never effectuated at that rate?

10 A. No.

11 Q. And could you explain the note on July 13th, 2009,
12 relating to the loan modification?

13 A. Yes. Because we didn't receive the documents or the
14 funds, we denied the loan modification.

15 Q. Was another forbearance agreement subsequently offered to
16 Mr. Reed?

17 A. Yes.

18 Q. And can you explain the note on July 31st, 2009?

19 A. Yes. At that point, Mr. Reed -- the Reeds were approved
20 for what -- what we're calling a thirty percent payment
21 reduction campaign, and -- and we sent out a solicitation
22 inviting them to participate in that campaign. Now --

23 Q. And that was -- I'm sorry.

24 A. I'm sorry. The thirty -- I don't know -- off the top of
25 my head, what the exact terms of this thirty percent payment

1 reduction campaign were, but it would have been -- it was a
2 program that GMAC would have, sort of, gone through its loans
3 and -- and chosen people who were struggling to keep up with
4 their loan, and -- and offered it to them. It didn't require
5 any kind of request from the borrower.

6 Q. And that kind of program that you just described, that's
7 not a loan modification, is that right?

8 A. No, it's not a loan modification.

9 THE COURT: So on August 3rd, 2009, among the entries
10 is "BPO obtained".

11 THE WITNESS: Um-hum.

12 THE COURT: Is that a broker price opinion?

13 THE WITNESS: Yes.

14 Q. Were the Reeds approved for the thirty percent reduction
15 plan?

16 A. Yes, they were.

17 Q. And was that ever finalized?

18 A. It -- it wasn't. And I have to find the exact entry, but
19 my recollection is that they called -- that Mr. Reed called and
20 indicated that he couldn't make a payment until the end of the
21 month.

22 Q. If you could look at the note on August the 6th, 2009, can
23 you explain that note?

24 A. Yes. "Frank", meaning Frank Reed, "called to advise that
25 they cannot make a payment. But at the end of the month,

1 that's when he gets paid." So because -- and then it indicates
2 that the borrower was already set up on a stop gap, referring
3 to this stop gap we had set up. When we solicited him for
4 the -- the payment reduction, we -- we did a stop gap just
5 to -- to hold on to the foreclosure while we waited for him to
6 respond. When -- so when he did that, when he called in, we
7 couldn't go forth with the -- the one that we had originally
8 solicited him for. But I believe that we -- yeah, if you look
9 down at the -- the third line from the bottom on that page, he
10 was -- oh, it wasn't. We -- I believe we tried to get him into
11 a non-HAMP trial modification. That was -- he was approved for
12 that. And if you go on to the next page, it indicates that he
13 was approved for that on August 13th of 2009.

14 Q. And was that trial plan ever completed?

15 A. No. No, it wasn't, because the payments weren't made.

16 THE COURT: Were any payments made?

17 THE WITNESS: No.

18 Q. And can you explain the notes on August 31st, 2009?

19 A. "Repayment plan cancelled automatic". Not only the
20 borrowers didn't make the payments, but instead, on the date we
21 would have been expecting a payment, he sent a fax asking if we
22 could accept a short payoff of 480,000 dollars and release the
23 lien in full, and we didn't accept that.

24 Q. Was the 3,000 dollars that was paid by Mr. Reed, in
25 connection with the forbearance agreement, applied to his

1 account?

2 A. No, the -- the way the forbearance agreement was set up,
3 when we received the 3,000 dollars, it didn't equal one -- one
4 monthly payment. So it -- it couldn't be credited to the
5 monthly payment. Had he sent in the next 7,000 dollars, we
6 would have credited one monthly payment, and then he would have
7 had some more. And each time he sent it in, when it added up
8 to a monthly payment, we would have credited that monthly
9 payment. But because he never sent in the first 7,000-dollar
10 payment, he never reached on full monthly payment. So that
11 3,000 dollars was placed in a suspense account. And there were
12 never any additional payments made on the loan, so it never got
13 out of the suspense account, and the suspense account is now
14 with the current servicer.

15 THE COURT: So September 9th, 2009, entry "LMT
16 BPO/Appraisal RAC Added", tell me what that means?

17 THE WITNESS: It's -what's -- I'm sorry, what's the
18 date?

19 THE COURT: September 9th, 2009. The code in the
20 second column is LMT.

21 THE WITNESS: Oh, I see, okay.

22 THE COURT: And the entry, in all caps is with a
23 BPO -- which I understand to be broker price opinion -- slash,
24 Appraisal.

25 THE WITNESS: It indicates that we received the broker

1 price opinion.

2 THE COURT: Was it an appraisal or broker price
3 opinion?

4 THE WITNESS: I'm not sure that there's a difference.

5 THE COURT: Oh, there is.

6 THE WITNESS: Well, then, I'm not sure which it is.

7 THE COURT: Do you know -- do you know what value was
8 placed on the property through the BPO or the appraisal in
9 September of 2009?

10 THE WITNESS: Not off the top of my head.

11 THE COURT: Where would you look for that?

12 THE WITNESS: We would -- we would have a copy of the
13 BPO in our system.

14 THE COURT: How often do you get a BPO or an
15 appraisal? I asked you about a prior entry on a BPO.

16 THE WITNESS: I don't know -- I don't know that it's
17 necessarily done at a specific interval. It would be done, I
18 think, if it's -- if it's considered to be stale when we're
19 making a new loss mitigation attempt. And I -- I just -- I
20 don't know at what point they consider it to be stale.

21 THE COURT: So the criteria for a HAMP modification,
22 the last step of the test is to compare the net present value
23 of the modified loan against the proceeds that could be
24 expected in a foreclosure. Is that why a BPO or an appraisal
25 is obtained when you're doing a possible modification to see

1 what the value of the property is?

2 THE WITNESS: Right, to be sure that you're not --

3 you're not extending beyond the value of the property.

4 BY MS. HAGER:

5 Q. Can you explain the FRB consent order?

6 THE COURT: Are we moving away from the servicing
7 notes?

8 MS. HAGER: I am.

9 A. Yes. In 2011, GMAC Mortgage, ResCap and Ally Financial,
10 and actually other servicers as well, were under investigation
11 by federal regulators, including the Federal Reserve Board and
12 entered into -- the debtors and Ally entered into a consent
13 order in 2011 that basically the debtors agreed to set up
14 certain procedures that were designed to ensure future
15 compliance with servicing and foreclosure rules and
16 regulations.

17 Q. And can you explain GMAC Mortgage's involvement with the
18 FRB foreclosure review process?

19 A. Yes. GMAC -- our involvement essentially was to provide
20 to an independent reviewer data from our servicing system. So
21 we -- under the consent order, we were obligated to pay for
22 what was called an independent foreclosure review. We hired
23 and paid for an independent reviewer and provided the servicing
24 data to them for the reviewer to review the files.

25 Q. Did GMAC Mortgage come to an agreement with the consent

1 order regulators?

2 A. Yes, eventually. In I believe it was June of 2013, we
3 entered -- executed a term sheet with the regulators that at
4 that point the independent foreclosure review was halted; there
5 were no additional individual file reviews. Money was placed
6 in escrow that was intended to be for settlement funds. And
7 the independent foreclosure reviewer and the Federal Reserve
8 Board looked at -- well, the independent consultant provided
9 what they call a waterfall, which was basically identifying
10 where the -- where the borrowers who were in the eligible
11 population would be placed in the waterfall to identify the
12 payments they would receive.

13 Q. And --

14 THE COURT: Let me -- I'm going to put a stop to the
15 questioning about the independent foreclosure review. During
16 the course of the debtors' Chapter 11 case, I became quite
17 familiar with the consent order. And indeed, when the
18 modification to the consent order was negotiated, I had to
19 approve it on behalf of the debtor.

20 Based on the Court's prior order, the independent
21 foreclosure review or the modified consent order which was
22 approved for payment of a lump sum, has absolutely no bearing
23 on the issues in this proceeding.

24 The debtor and Ally entered into it without admitting
25 or denying any of the allegations. The waterfall procedures

1 that were set up under the modified consent order under which
2 payments were made have no bearing on any of the issues here.
3 So we can shorten this proceeding. I'm not going to -- I don't
4 want any more questions from you, and I'm not going to permit
5 any questions from Mr. Reed with respect to the Federal Reserve
6 Board consent orders, the original or the modified order.

7 MS. HAGER: I only had two more questions relating to
8 that, and that being the case, I have nothing further.

9 THE COURT: Okay.

10 MS. HAGER: Thank you, Your Honor.

11 THE COURT: Mr. Reed, cross-examination?

12 MR. REED: Your Honor, I'm trying to find a document
13 to --

14 (Pause)

15 MS. HAGER: Your Honor, if Mr. Reed lets us know what
16 he's looking for, we could --

17 MR. REED: I'm trying to find the copy -- I thought it
18 was -- I thought it was in here -- of the complaint against
19 GMAC Mortgage that I filed in the state court action. I
20 thought it was in with the --

21 I'm trying to find the date it was filed.

22 MS. HAGER: I -- if I may? I think that might have
23 been included with the proof of claim. Do you have that, Mr.
24 Reed?

25 MR. REED: I don't. I don't. I'm sorry.

1 THE COURT: Mr. Reed, you filed your complaint against
2 GMAC Mortgage on May 10th, 2010. It's Exhibit D to your proof
3 of claim.

4 MR. REED: Okay.

5 THE COURT: And you filed your amended complaint on
6 January 6th, 2012, and that's Exhibit E to your claims.

7 CROSS-EXAMINATION

8 BY MR. REED:

9 Q. Good afternoon, Ms. Delehey. We've seen each other an
10 awful lot, but never spoken.

11 A. Good afternoon.

12 MR. REED: What was the date, Your Honor, that that
13 action was filed?

14 THE COURT: May 10th, 2010.

15 (Pause)

16 Q. In your testimony you said you had to -- I can't remember
17 exactly what the question was, but your answer was you had to
18 take action for collateral that would be -- that GMAC's
19 collateral would be threatened. Is that GMAC's collateral?
20 And what is the collateral?

21 MS. HAGER: Objection to form. And mischaracterizes
22 her testimony.

23 THE COURT: Well, I think Ms. Delehey can handle it.
24 Overruled.

25 A. Well, GMAC Mortgage is the servicer, so the investor's

1 collateral would be threatened. We're -- as the servicer,
2 that's our responsibility.

3 Q. Okay. Can you show me in the notes any address or
4 telephone number that you would have for me on or before -- two
5 dates I'm trying to find: before November of 2008 and after
6 2008?

7 A. No, sir, I don't have those in the notes. If I needed to
8 get an address, what I would do is look it up on our Fiserv
9 LoanServ system, and it would be in there. It would indicate
10 the current address if I pulled it up.

11 Q. Are you aware of any of the exhibits that have been
12 proposed to the Court that would indicate, at various points in
13 time, the telephone numbers or addresses that you had on record
14 for myself?

15 A. Is there any way that --

16 THE COURT: Answer that yes or no. I mean -- it's not
17 a trick question.

18 A. I mean, I don't have very many exhibits in front of me.
19 But we sent your foreclosure repayment agreement to an address
20 817 Matlack Drive, Morristown, New Jersey, on August 1st of
21 2008. So that would have reflected our understanding of your
22 address at that date.

23 Q. And that date was, again? Could you repeat that?

24 A. August 1st, 2008.

25 (Pause)

1 Q. Do you have any other address in the records here in the
2 court or in the notes that --

3 A. Not to my -- not to my knowledge because I don't -- I'm
4 not aware that the notes would specifically have the address.
5 Like I said, it would be in our system, but I don't have our
6 system in front of me.

7 Q. Or phone number?

8 A. That would be in our system on any given date.

9 Q. Um-hum.

10 A. Not today because we're not the servicer.

11 Q. So the loan modification that was approved by the servicer
12 notes -- indicated by the servicer's notes 5/10/2009 --

13 A. Yes.

14 Q. -- I believe you testified that you sent -- or that the
15 company sent out the documents to be executed?

16 A. Yes. That's my understanding.

17 Q. Is there anything in the notes that indicate telephone
18 contact about this particular transaction or proposed
19 transaction?

20 A. I cannot find -- I don't see that. Well, although it says
21 on May 15th of 2009 there's a note that says, "Send execution
22 documents completed 5/15/2009." So that would indicate that we
23 had sent the documents out for execution.

24 Q. But we don't know where. There's nothing here --

25 A. Not by looking at these notes, we don't, no, but we would

1 be able to tell that from looking at our system.

2 MR. REED: It's important, Your Honor, because I
3 didn't live in that house.

4 THE COURT: Don't testify. Ask your questions.

5 MR. REED: Okay.

6 Q. Do you know who Bernadette Daddazio (ph.) is?

7 A. I believe Bernadette Daddazio was a servicing -- an
8 employee in GMAC Mortgage's servicing group or loss mitigation
9 group, probably.

10 Q. And is it your understanding Ms. Daddazio had the
11 authority to bind GMAC in a modification agreement on behalf of
12 an investor?

13 A. I don't know exactly how to answer that. I mean,
14 Bernadette Daddazio, her name is in here. If you have a
15 particular entry you're talking about? I see --

16 Q. 5/10/2009 seems to indicate it was approved by Ms.
17 Daddazio.

18 A. I believe that that was sort of a -- there are also notes
19 that talk about submitted to the investor. And so I can't
20 answer you today that Bernadette Daddazio made the decision on
21 behalf of the investor, 'cause there are things that say
22 "improved by investor," "recommended to investor". So I
23 don't -- I just -- I don't necessarily know that she did
24 anything on behalf of the investor.

25 Q. But it's your understanding that this -- this modification

1 was a valid offer to be accepted by me and bind the company to
2 it?

3 A. Yes. In response to a package that was sent in by you.

4 Q. But, again, we don't have any knowledge of where that
5 package was sent?

6 THE COURT: She referred to a package sent in by you.

7 A. Um-hum. We received a financial package from you.

8 Q. Oh, I'm sorry.

9 A. And that was what set off the loan mod application.

10 (Pause)

11 Q. Would you look at the entry for May 15th, 2009; "Send
12 execution documents and then completed 5/15/09." What is the
13 "completed 5/15/09"?

14 A. It means that we sent the documents out for execution. In
15 other words, that we sent them to the Reeds.

16 Q. Because first -- the first entry then is "uncompleted" and
17 then below that "completed."

18 A. Well, I guess that these are checklists that they have to
19 check off. So, I guess, early in the day it was uncompleted
20 and then it was completed.

21 Q. All right.

22 (Pause)

23 Q. So in going back -- I think you -- this is your test -- on
24 May 7th, 2009 --

25 A. Um-hum.

1 Q. -- "completed financial package received".

2 A. Yes.

3 Q. What does that mean?

4 A. That's -- that's what I meant that we received a financial
5 package from the Reeds.

6 Q. Do you approve a loan modification without having received
7 a financial package?

8 A. No. Not unless it's a particular program like, for
9 example, that thirty percent reduction that we would solicit.

10 Q. August 31st, 2009, the servicing notes, it indicates, and
11 I believe you testified that there was a fax sent in if you
12 would take a payoff for 480,000 dollars to release the lien.
13 Is there any record of where that -- the phone number or the
14 fax number that it was sent from? Was there a cop -- and is
15 there a copy of that fax?

16 A. There's no record of that here in these notes, but it may
17 be in our -- in our Looking Glass system. It may be imaged in
18 there. I don't know because I didn't look for that.

19 Q. So the only date -- or, excuse me -- the only address of
20 contact that we have in the servicing notes is the 817 Matlack
21 Drive?

22 A. Well, as I said, the servicing notes don't maintain a
23 record of -- of the address. That's just not where they're
24 kept. If a borrower notifies us that there's a change in
25 address, then we would change the address in our system and it

1 would be in our system. It wouldn't -- the address wouldn't be
2 entered into the servicing notes.

3 Q. So is there any proof, or record, that indicates a
4 specific telephone number or my address that a communication
5 took place that ties me to after No -- after November 2008? In
6 other words, like, you -- when you look at the business
7 records, you see an address, unless there's other evidence,
8 that says 817 Matlack Drive. After November 2008, you can't
9 say whether or not these correspondences were sent to any other
10 address or continued to stay -- being sent to 817 Matlack
11 Drive?

12 MS. HAGER: Objection.

13 THE COURT: Overruled.

14 A. Well, look, as I've said, I -- the servicing notes are not
15 the source of the addresses where things were sent. Anything
16 that was sent would be sent to the address of record. There
17 are indications in the servicing notes that we received things
18 back from you at various times. So that would suggest to me
19 that you received them from us and, therefore, that we sent
20 them to an address that worked.

21 Q. I'm not quite sure they came from me.

22 THE COURT: Don't interrupt, Mr. Reed.

23 A. If you had made an inquiry about the -- you know, a
24 specific record of what addresses were on file for you in our
25 system over the years, we could have responded to that. But I

1 can't do it today off the top of my head or through these
2 servicing notes.

3 MR. REED: Your Honor, I don't have anything further.

4 THE COURT: All right. Any further questions, Ms.
5 Hager?

6 MS. HAGER: Yes, Your Honor.

7 MR. REED: And these are -- her questions are within
8 my --

9 THE COURT: Yes. Just within the scope of what you
10 ask about.

11 REDIRECT EXAMINATION

12 BY MS. HAGER:

13 Q. Was it GMAC Mortgage's practice to send correspondence to
14 homeowners at their residence?

15 A. We would send it to them at their residence unless they
16 advised us that we were to send it to them at a different
17 address.

18 Q. And if the borrower contacted GMAC Mortgage to indicate a
19 change of address or change of phone number, that would be
20 reflected somewhere in the records?

21 A. It would be reflected in the servicing notes.

22 Q. If GMAC Mortgage received correspondence back that was
23 marked "return to sender", would that be indicated somewhere in
24 the servicing notes?

25 A. I believe it would, yes.

1 Q. In your review, did you notice any such entries?

2 A. No. I didn't notice that. And, in fact, I looked for
3 that because I noticed that there was -- there were a lot of
4 entries where we had sent out letters and received no
5 responses. So I specifically looked to see whether there was
6 some indication that those were being returned unread. And I
7 see no indication that that happened.

8 Q. Okay, thank you.

9 THE COURT: All right, you're excused.

10 THE WITNESS: Thank you.

11 THE COURT: Does the Trust have any other witnesses?

12 MS. HAGER: No, Your Honor. Borrower Trust rests.

13 THE COURT: All right. Mr. Reed, you have an
14 opportunity briefly to present any rebuttal evidence that you
15 wish. So that would have to respond to -- for example, since
16 they only had one witness, if there's evidence you want to give
17 in response to what Ms. Delehey said, you can do that now. You
18 don't have to, but I just want to make clear to you, you have
19 that right.

20 MR. REED: Your Honor, the first piece of evidence
21 that I would --

22 THE COURT: If you're going to give evidence, you got
23 to do it --

24 MR. REED: Oh. Yes.

25 THE COURT: -- from the witness stand.

1 MR. REED: Sorry. Um-hum.

2 (Pause)

3 THE COURT: And you're still under oath, so you don't
4 get sworn again.

5 MR. REED: The piece of evidence that I wanted to
6 refer to and testify about is not here; it's in the -- it's the
7 complaint that was filed in New Jersey, May 10th complaint.

8 THE COURT: Your complaint?

9 MR. REED: Yes, Your Honor.

10 THE COURT: I'm going to have our reporter hand you a
11 copy of the complaint that you filed on May 10th, 2010; it's
12 printed both sides of the page, so you have to look at the
13 other side. So, what, Exhibit D to the proof of claim.

14 MR. REED: For the record, I'd like to point out, Your
15 Honor, that the complaint was filed May 10th. I had retained
16 counsel regard (sic) my relationship with GMAC, prior to May
17 10th, as you must realize that drafting and filing a complaint
18 doesn't happen in the same day.

19 I'm confused about the testimony in the record,
20 because, as you indicated yourself yesterday, when you retain
21 an attorney, you typically stop communicating with the mortgage
22 company, which I -- from my recollection, I did.

23 Mr. Walters took over the representation from me
24 earlier than May. In the complaint, I can only say that the
25 address of our house where I was living in Virginia is on the

1 complaint, and it was given to GMAC; I at least would know by
2 service for Mr. Walters.

3 But I am -- I'm confused, and I have to say it for the
4 record, by the offer for 480,000 dollars.

5 THE COURT: No, that note suggests that you made an
6 offer --

7 MR. REED: I understand that.

8 THE COURT: -- not that they made an offer.

9 MR. REED: I understand that --

10 THE COURT: Okay?

11 MR. REED: -- Your Honor What I'm -- I cannot
12 explain -- they say on the record that I submitted a financial
13 package to the mortgage company. Whether this weighs against
14 me or not -- I don't know what to tell you. I don't recall
15 submitting a financial package to the mortgage company. I
16 don't recall having communications with the mortgage company.
17 After the dismissal in 2009, I received a letter of dismissal
18 from the mortgage company, in the mail sent to me in Virginia.
19 I don't recall ever receiving any documents whatsoever, or
20 phone calls. And I don't know what to make of it.

21 Your Honor knows that there was an individual in my
22 home, from November on, who was -- I don't know how to describe
23 him, and I never could divine the intentions on my property
24 clearly. I believe, if I would have known about a
25 modification, that we would have worked towards it and accepted

1 it. I do not understand it. I don't -- this is the first I'm
2 aware of it.

3 If it was sent to me in Virginia and I didn't see it,
4 I don't know what to say. I just -- today as I sit here right
5 now, I'm surprised by it, especially in light of the fact that
6 I had Mr. Walters involved. That's it, Your Honor. And I
7 don't --

8 THE COURT: Okay. Anything else you want to add?

9 MR. REED: I don't think so.

10 THE COURT: All right. Cross-examination?

11 CROSS-EXAMINATION

12 BY MS. HAGER:

13 Q. Mr. Reed, during the time you were living in Virginia, was
14 your mail being forwarded from Matlack to your residence in
15 Virginia?

16 A. I don't know.

17 Q. And on August 6th, 2009, among other times, there are
18 entries that you called and spoke with GMAC or that GMAC called
19 and spoke with you. Do you deny having any telephone
20 conversations with GMAC Mortgage --

21 A. I don't --

22 Q. -- during this particular time period?

23 A. Yeah, I don't remember them, and that's the truth. I
24 don't remember them.

25 Q. All right. Thank you.

1 THE COURT: All right. Okay, you're excused as a
2 witness.

3 All right. I have to ask you again, do you rest?

4 MR. REED: Yes.

5 THE COURT: Okay. All right, I'm not sure that the
6 recording picked it up, but I asked Mr. Reed whether he --

7 Why don't you go back to your other place at the
8 counsel table there and I'll ask you again.

9 All right, Mr. Reed, do you rest?

10 MR. REED: Yes, Your Honor.

11 THE COURT: All right, thank you.

12 All right, both sides have rested.

13 I have a lot of evidence and material to consider.

14 We've had a two-day evidentiary hearing. I don't believe I
15 would benefit from having closing argument now. There was
16 quite extensive briefing before the hearing, opening statements
17 by Mr. Reed and Ms. Hagerty (sic). So I don't feel the need to
18 have closing statements, but what I will do -- what I'm
19 prepared to do, if the parties desire it, is listen to no more
20 than ten minutes from each of you. I think I have quite
21 extensive notes and I've got to review a lot of these exhibits
22 more closely.

23 But, Mr. Reed, and you could do it right from where
24 you're sitting, if you want to speak for up to ten minutes,
25 I'll permit you to do that.

1 MR. REED: I won't burden you with nearly that, Your
2 Honor.

3 THE COURT: Okay.

4 MR. REED: Just a few comments. I believe that there
5 are two wrongful -- distinct wrongful occurrences that have
6 harmed me: the first one is the foreclosure filing itself, and
7 the second is the -- I guess, the lingering of the lis pendens
8 on the public record, beyond the dismissal of the foreclosure.
9 We've discussed extensively, as you indicate, the various
10 theories and proofs relating to those wrongful -- or, I
11 believe, wrongful occurrences. I also believe we attempted to
12 put in the record that there were significant efforts to
13 mitigate and manage all the circumstances surrounding the
14 occurrences and subsequent to them, in good faith.

15 Until moments ago I was under the impression that
16 there was no attempts beyond our original meeting with the
17 individual, Mr. Folweiler, and the communications that took
18 place at that time. Perhaps it has come after I vacated the
19 property; cannot say. But perhaps it compounded the situation.

20 Your Honor, I've been as forthright and honest as I
21 can be, at times aggravating this Court with the slowness,
22 even, of my thoughts and searching through my documents for
23 either proofs or things that I relied on in my understanding of
24 the situation as I experienced it, because I wanted to convey
25 to the Court, for whatever end result you judge, what I believe

1 to have been the truth of the matter, for your sincere and
2 honest and professional consideration.

3 I'd like to thank the Court for its consideration and
4 patience with me, except for when you yell at me. And
5 hopefully I will never see the inside of a bankruptcy court
6 again, which is part of the reasons I'm here, Your Honor: so
7 that I personally don't need to appear before a bankruptcy
8 judge.

9 Thank you for your consideration.

10 THE COURT: All right, thank you.

11 Ms. Hager, I misspoke your name the last time I
12 addressed you, and I apologize --

13 MS. HAGER: Yeah, but I'll let --

14 THE COURT: -- for that.

15 MS. HAGER: -- that go.

16 THE COURT: Okay..

17 MS. HAGER: Thank you. It was better than my maiden
18 name, whichever one you so mispronounced.

19 Your Honor, at the outset of this two-day hearing, I
20 stood up here and did my opening and talked about the burden of
21 proof being on Mr. Reed to prove his claims by a preponderance
22 of the evidence, except for the singular claim for punitives,
23 which must be proven by the higher clear-and-convincing
24 standard. Simply, he had the burden. He hasn't met that
25 burden. He hasn't shown GMAC Mortgage's responsibility through

1 admissible evidence or witness testimony. There's insufficient
2 proofs to warrant an allowable claim versus GMAC Mortgage or
3 RFC. Therefore, Mr. Reed's demand for any, let alone
4 extraordinary, damages against GMAC Mortgage or RFC must be
5 denied on account of substantial lack of proof. Thank you.

6 THE COURT: Okay. Thank you very much.

7 All right, we're adjourned. I'm obviously taking the
8 matter under submission and in due course will issue a written
9 order or decision. Just so we're clear, I mean, what this
10 proceeding was about, in the prior ruling of the Court, I
11 determined that the Reeds' claims and the Trust's objections
12 raised a contested matter. I sustained the objection in part,
13 overruled it in part. And the purpose of this proceeding --
14 and there were pre-trial orders that were entered permitting
15 discovery -- was to have an evidentiary hearing to fix the
16 amount of the Reeds' claims. And that is what I view the task
17 before me.

18 I appreciate the efforts of all the counsel and
19 Mr. Reed. And I recognize that it's difficult for any pro se
20 party, but you still -- given some leeway, still have to abide
21 by the Rules of the Court.

22 So, thank you all. And in due course I will have a
23 ruling. We're adjourned.

24 MS. HAGER: Thank you, Your Honor.

25 (Whereupon these proceedings were concluded at 5:06 PM)

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2 C E R T I F I C A T I O N

3

4 I, Aliza Chodoff, certify that the foregoing transcript is a
5 true and accurate record of the proceedings.

6

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8



9

10 _____
11

12 ALIZA CHODOFF

13 AAERT Certified Electronic Transcriber CET**D 569

14

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19 Date: September 17, 2014

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